2017

Employee benefit plans industry developments - 2017; Audit risk alerts

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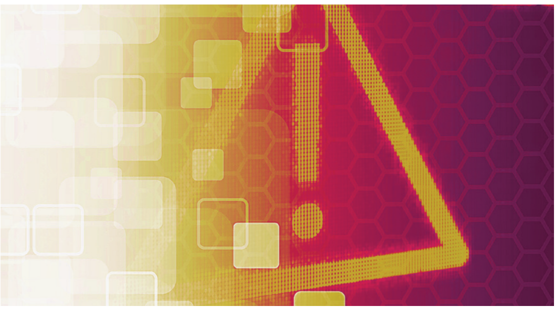

Employee Benefit Plans Industry Developments

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2017

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ISBN 978-1-94549-872-5

Notice to Readers

This Audit Risk Alert (alert) replaces *Employee Benefit Plans Industry Developments—2016*.

This alert is intended to provide auditors of employee benefit plan financial statements with an overview of recent economic, industry, regulatory, and professional developments that may affect the audits and other engagements they perform. It also can be used by plan management and plan sponsors to address areas of audit and accounting concern.

This publication is an *other auditing publication*, as defined in AU-C section 200, *Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards* (AICPA, *Professional Standards*). Other auditing publications have no authoritative status; however, they may help the auditor understand and apply generally accepted auditing standards.

In applying the auditing guidance included in an other auditing publication, the auditor should (using professional judgment) assess the relevance and appropriateness of such guidance to the circumstances of the audit. The auditing guidance in this document has been reviewed by the AICPA Audit and Attest Standards staff and published by the AICPA and is presumed to be appropriate. This document has not been approved, disapproved, or otherwise acted on by a senior technical committee of the AICPA.

Recognition

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The AICPA gratefully acknowledges those members of the Auditing Standards Board, the AICPA Technical Issues Committee, and the AICPA Employee Benefit Plans Audit Risk Alert Task Force who helped identify the interest areas for inclusion in this alert. The AICPA also gratefully acknowledges the contributions of the Office of the Chief Accountant, the Employee Benefits Security Administration, and the U.S. Department of Labor (DOL).

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Feedback

The Audit Risk Alert *Employee Benefit Plans Industry Developments* is published annually. As you encounter audit or industry issues that you believe warrant discussion in next year's alert, please feel free to share them with us. Any other comments you have about the alert also would be appreciated. You may email these comments to A&APublications@aicpa.org.

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How This Alert Helps You

.01 This Audit Risk Alert (alert) helps you plan and perform your employee benefit plan audits and also can be used by plan management and plan sponsors to address audit and accounting concerns. It provides information to assist you in achieving a more robust understanding of the business, economic, and regulatory environments in which your clients operate. This alert is an important tool to help you identify the significant risks that may result in the material misstatement of financial statements and delivers information about emerging practice issues and current accounting, auditing, reporting, and regulatory developments. For developing issues that may have a significant effect on the employee benefit plan industry in the near future, the "On the Horizon" section provides information on these topics.

.02 It is essential that the auditor understand the meaning of audit risk and the interaction of audit risk with the objective of obtaining sufficient appropriate audit evidence. Auditors obtain audit evidence to draw reasonable conclusions on which to base their opinion by performing the following:

- Risk assessment procedures
- Further audit procedures that comprise
  - — tests of controls, when required by generally accepted auditing standards (GAAS) or when the auditor has chosen to do so, and
  - — substantive procedures that include tests of details and substantive analytical procedures

.03 The auditor should develop an audit plan that includes, among other things, the nature and extent of planned risk assessment procedures, as determined under AU-C section 315, *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement* (AICPA, *Professional Standards*). AU-C section 315 defines *risk assessment procedures* as the audit procedures performed to obtain an understanding of the entity and its environment, including the entity's internal control; and to identify and assess the risks of material misstatement (whether due to fraud or error) at the financial statement and relevant assertion levels. As part of obtaining the required understanding of the entity and its environment, in accordance with paragraph .12 of AU-C section 315, the auditor should obtain an understanding of the relevant industry, regulatory, and other external factors, including the applicable financial reporting framework. This alert assists the auditor with this aspect of the risk assessment procedures and further expands the auditor's understanding of other important considerations relevant to the audit.

> ***Help Desk:*** See the new AICPA Audit Guide *Assessing and Responding to Audit Risk in a Financial Statement Audit* for further information regarding identifying high-risk audit areas. This Audit Guide can be obtained through www.AICPAStore.com.

Economic and Industry Developments

The Current Economy

General Discussion

.04 Recognizing that economic conditions and other external factors relevant to an entity and its environment constantly change, it is important for auditors to evaluate whether changes have occurred since the previous audit that may affect their reliance on information obtained from their previous experience with the entity. These changes may affect the risks and risk assessment procedures applicable to the current year's audit.

.05 When planning an audit, auditors need to understand the economic conditions facing the industry in which an entity operates, as well as the effects of these conditions on the entity itself. These external factors—such as interest rates, availability of credit, consumer confidence, overall economic expansion or contraction, inflation, and labor market conditions—are likely to have an effect on an entity's business and, therefore, its financial statements. Considering the effects of external forces on an entity is part of obtaining an understanding of the entity and its environment.

.06 The year 2016 was marked by steadily increasing employment rates, lackluster wage growth, an increase in long-term interest rates, and a continuing suppression of the price of crude oil. After the 2016 national elections in November, the U.S. stock market hit record high levels.

.07 Over the past few years, the Federal Reserve has decreased the target for the federal funds rate more than 5.0 percentage points from its high of 5.25 percent prior to the financial crisis, to less than 0.25 percent, where it remained until December 2015. After a long period of anticipation, at its December 2015 meeting, the Federal Reserve increased the target federal funds rate from 0.25 to 0.5 percent. At its December 2016 meeting, the rate was increased from 0.5 percent to 0.75 percent, and further increases are anticipated. The reasons cited for the decision to take action include the following:

- The unemployment rate has continued to decline.
- Household spending has continued to advance at a moderate rate.
- Economic activity has continued to expand at a moderate pace.
- The inflation rate has increased but remains at an acceptable level, up to 2 percent.

Employee Benefit Plan Considerations

.08 Part of obtaining an understanding of the entity and its environment is considering how external forces affect an employee benefit plan. This consideration allows the auditor to plan and perform the audit to address risks identified. A new perspective with each audit is helpful as economic conditions and trends in the employee benefit plan industry may create additional risks of material misstatement that did not previously exist or did not have a material effect on the audit of the employee benefit plan in prior years.

.09 The following are challenges or trends that have occurred over the past few years that may be important for auditors to consider when gaining an understanding of the industry, in light of the current economic environment:

- Uncertainty in the regulatory environment as a result of the new Administration and the change in leadership within the DOL
- Increases in mergers, spin-offs, and acquisitions causing challenges when planning audits
    - — Documentation of the related terms are not always clear and consistent between the plans, as it relates to the effective date of the transaction and the appropriate period to record the transfer of the applicable net assets to the successor plan.
    - — This can lead to inconsistent reporting of the transaction for both plans involved. Additional audit procedures related to the balances being transferred into the plan may need to be performed.
    - — See paragraph 2.133 of the AICPA Audit and Accounting Guide *Employee Benefit Plans* (guide) for considerations related to opening balances and completeness of participant information related to plan transfers into the plan.
- Continued downsizing of companies leading to a full or partial plan termination
    - — A partial termination may occur during one plan year or over several plan years and may be overlooked by plan sponsors.
    - — As a result, the affected participants may not be made fully vested and receive their full benefit.
    - — If a plan is terminating, and the liquidation of the plan is deemed to be imminent before the end of the plan year, plan sponsors should prepare the financial statements on the liquidation basis of accounting in accordance with FASB *Accounting Standards Codification*® (ASC) 205-30, *Liquidation Basis of Accounting*.
- Challenge for plan sponsors to locate certain participants when attempting to pay benefits due to the increased number of plan mergers and acquisitions
    - — Plan sponsors should be aware that the DOL has issued guidelines in Field Assistance Bulletin (FAB) No. 2014-01 outlining the minimum steps required to locate a participant.
- Instances in a profit-sharing plan or a plan with a profit sharing feature, where no employer contributions have been made in at least three of the prior five consecutive years
    - — This may result in a possible complete discontinuance of contributions whereby full vesting is required in order to preserve a plan's tax qualified status.
    - — See the "Employer Profit-Sharing Contributions" section of this alert.

- Challenges for plan sponsors of employee stock ownership plans (ESOP) include maintaining accurate records of stock allocations, release of shares upon debt satisfaction and reporting of the accurate fair value of employer stock
- Release of the Society of Actuaries (SOA) Mortality Improvement Scale MP-2016 which may result in a decrease in the obligation
  - — See the "Mortality Table" section of this alert.
- In anticipation of the upcoming prescribed IRS table, consideration by plan sponsors to offer retirees, not yet receiving benefits, and vested employees, similar lump-sum buy-out windows offered to terminated vested participants in certain Defined Benefit Pension Plans (DB plans) as part of de-risking
  - — See the "Proposed Revised Mortality Tables" section of this alert.
- Challenges in maintaining accurate and complete census data for aging DB plans, especially in instances of lost demographic data due to plan sponsors undergoing business combinations or divestitures, and changes in actuaries and other service providers
  - — See the "Maintaining Pertinent Records" section of this alert.
- Increases in the number of participating employers withdrawing from multiemployer plans, resulting in underfunded obligations and possible legal action related to withdrawal liabilities
- Increase in excessive fee lawsuits involving the number of investment offerings and related fees resulting in additional risks
  - — See the "Trends in Legal Action" section of this alert.
- Changes to plan investment options as plan sponsors review their plan investments in response to the requirement imposed in October 2016 by the SEC as part of money market fund reform whereby institutional funds not classified as government money market funds became subject to floating net asset value (NAV) versus $1.00 NAV
- Improper valuation of real estate investments resulting from lack of obtaining annual appraisals or misapplication of fair value measurement
- Increases in hard-to-value investments not properly recorded at fair value as of the reporting date, due to the use of inappropriate valuation methodologies, mathematical errors in the application of the methodologies, or inaccurate inputs
- Significant modifications to the determination letter program for individually designed plans by the IRS including determination letters for individually designed plans being limited to initial plan qualification and qualification upon termination
  - — Many plan sponsors are moving their plans from individually designed plans to a prototype or volume submitter plan.

— It is important to make sure that the appropriate and intended provisions are selected.

— See the "Determination Letters Downsizes" section of this alert.

- Existence of controlled groups and affiliated service groups that are overlooked when performing annual compliance testing resulting in possible testing failures, audit adjustments, and loss of tax qualified status
- For limited-scope audits, certifications that may not be acceptable, that may be from organizations unable to certify, or that may not cover all of the assets (held by the plan for investment purposes) for the entire period

  — See the "Limited-Scope Certifications: Plan Administrator's Responsibilities" section of this alert.

- Lack of proper plan oversight throughout the year may cause instances where plan provisions are improperly applied resulting in possible adjustments to the financial statements, particularly regarding failure to use the proper definition of compensation in the calculation of contributions, for a defined contribution retirement plan (DC plan), and for the calculation of benefit for a DB plan
- In the current environment, many participants are working beyond their normal retirement date

  — It is important for plan sponsors to be diligent in following the plan provisions regarding the minimum required distribution rules.

  — Such a failure may unfavorably affect the plan's tax status.

Hot Topics

Cybersecurity

.10 According to the 2016 Employee Retirement Income Security Act of 1974 (ERISA) Advisory Council report, cyber threats include data breaches whereby sensitive, protected, or confidential data have potentially been viewed, stolen, or used by someone unauthorized to do so. Individuals, organizations, and industries are susceptible to cyber threats, including employee benefit plans and their service providers. Common cyber risks to employee benefit plan participants include identity theft, privacy breaches, and theft of assets. The cost of a breach, which includes detecting the extent of the breach, recovering the data, and restoring technological systems, can be substantial.

.11 Cyber threats cannot be eliminated, but they can be managed. Employee benefit plans often maintain and share sensitive employee data and asset information across multiple unrelated entities as a part of the employee benefit plan administration process. Because employee benefit plans are regulated by ERISA, it is important for anyone who interacts with the plan to be particularly aware of the effect that breaches have on participants and beneficiaries and the associated rights and duties of plan fiduciaries and service providers arising under ERISA.

> ***Help Desk:*** When performing risk assessment procedures, it is important for auditors to consider risks related to cybersecurity threats that could affect the financial statements (for example, requiring disclosure and a loss contingency).

.12 Plan sponsors commonly have policies and procedures relative to plan investments, conflicts of interest, and plan expenses, but may not have a cybersecurity strategy for protecting the data or assets for their employee benefit plans. They may have a cybersecurity strategy for their business needs, but not a separate strategy for their employee benefit plans. Cybersecurity concerns for ERISA plans require special consideration because they are unique and differ from the business enterprise's issues.

.13 It is important for plan sponsors and fiduciaries to consider cybersecurity in safeguarding employee benefit plan data and assets, as well as when making decisions to select or retain a service provider. The 2016 Advisory Council on Employee Welfare and Pension Benefit Plans recommended that the DOL provide information to plan sponsors, fiduciaries, and service providers to educate them on cybersecurity risks and potential approaches for managing these risks. The 2016 Council drafted a sample document titled "Employee Benefit Plans: Considerations for Managing Cybersecurity Risks" for the DOL. See the "DOL ERISA Advisory Council Activities" section of this alert for more information.

> ***Help Desk:*** To help businesses and organizations report on their cybersecurity risk management efforts, the AICPA's Assurance Services Executive Committee (ASEC) has exposed two sets of criteria:
>
> - Proposed Description Criteria for Management's Description of an Entity's Cybersecurity Risk Management Program
> - Proposed Revision of Trust Services Criteria for Security, Availability, Processing Integrity, Confidentiality, and Privacy

See https://www.aicpa.org/interestareas/frc/assuranceadvisoryservices/pages/cyber-security-resource-center.aspx#Featured for additional information.

In addition to these exposure drafts, you can find a number of other helpful resources including a backgrounder on the AICPA's upcoming cybersecurity engagement, a mapping of the Proposed Trust Services Criteria, and the AICPA's input to the Commission on Enhancing National Cybersecurity at www.aicpa.org/InterestAreas/FRC/AssuranceAdvisoryServices/Pages/AICPA CybersecurityInitiative.aspx.

Auditing Standards Board Employee Benefit Plan Auditor Reporting Project

.14 The Auditing Standards Board (ASB) continues to work on improving the communicative value and relevance of the auditor's report. In January 2015, a special task force (the task force) of the ASB was formed to consider a proposal to improve the quality of employee benefit plan audits by strengthening the employee benefit plan auditor's report. The Chief Accountant of the DOL requested the ASB take a fresh look at the auditor reporting model for audits of financial statements of employee benefit plans subject to the ERISA to provide better insight to the public regarding the scope of the responsibilities of management and the auditor, including when management imposes a limitation on the scope of the audit, as permitted by the DOL's Rules and Regulations for Reporting and Disclosure under ERISA. The Chief Accountant of the DOL and DOL staff provided the task force with insights and recommendations as to areas where the DOL believes the auditor's report can be strengthened. The task force considered this information as the proposed Statement on Auditing Standards (SAS) was developed.

.15 On a February 22, 2017, conference call, the ASB voted to ballot for exposure a draft of a new standard, *Forming an Opinion and Reporting on Financial Statements of Employee Benefit Plans Subject to ERISA*. The exposure draft is expected to be released in April 2017 with a 120-day comment period.

.16 The proposed SAS reflects the ASB's proposal for a new reporting model for audits of ERISA plans that, among other things, changes the form and content of the auditor's report when management imposes a limitation on the scope of the audit, as permitted by ERISA. In addition, the proposed SAS includes a requirement to report findings from procedures performed on specific plan provisions relating to the financial statements. The reporting model changes in the proposed SAS would also require certain performance requirements in addition to existing AU-C sections. Questions relating to these proposed requirements are included in the "Issues for Consideration" section in the exposure document.

.17 Readers are encouraged to review and provide comments on the proposed SAS and on the issues outlined in the exposure document. Comments are most helpful when they refer to specific paragraphs, include the reasons for the comments, and (where appropriate) make specific suggestions for any proposed changes to wording. When a respondent agrees with proposals in the exposure draft, it will be helpful for the ASB to be made aware of this view as well.

Accounting Issues and Developments

Readily Determinable Fair Value

.18 FASB Accounting Standards Update (ASU) No. 2015-10, *Technical Corrections and Improvements*, included an amendment that provided a technical correction to the definition of *readily determinable fair value*. The amendment was effective June 15, 2015, the issuance date of the ASU. The following highlights, through underlined text, the revision to FASB's master glossary definition of *readily determinable fair value*.

.19 An equity security has a readily determinable fair value if it meets any of the following conditions:

- The fair value of an equity security is readily determinable if sales prices or bid-and-asked quotations are currently available on a securities exchange registered with the SEC or in the over-the-counter market, provided that those prices or quotations for the over-the-counter market are publicly reported by NASDAQ systems or by OTC Markets Group Inc. Restricted stock meets that definition if the restriction terminates within one year.

- The fair value of an equity security traded only in a foreign market is readily determinable if that foreign market is of a breadth and scope comparable to one of the U.S. markets referred to previously.
- The fair value of an equity security that is an investment in a mutual fund or in a structure similar to a mutual fund (that is, a limited partnership or a venture capital entity) is readily determinable if the fair value per share (unit) is determined and published and is the basis for current transactions.

.20 The revision to the definition of readily determinable fair value is relevant to the plan's fair value measurement of investments because using NAV per share (or its equivalent) as a practical expedient under paragraphs 59–62 of FASB ASC 820-10-35 and 820-10-50-6A applies only to an investment that meets both of the following criteria as of the reporting entity's measurement date:

- The investment does not have a readily determinable fair value.
- The investment is in an investment company within the scope of FASB ASC 946, *Financial Services—Investment Companies*, or is an investment in a real estate fund for which it is industry practice to measure investment assets at fair value on a recurring basis and to issue financial statements that are consistent with the measurement principles in FASB ASC 946.

.21 In addition, as stated in FASB ASC 820-10-35-62, a reporting entity is not permitted to estimate the fair value of an investment (or a portion of the investment) within the scope of paragraphs 4 through 5 of FASB ASC 820-10-15 using the NAV per share of the investment (or its equivalent) as a practical expedient if, as of the reporting entity's measurement date, it is probable that the reporting entity will sell the investment for an amount different from the NAV per share (or its equivalent).

.22 An investment that is considered to have a readily determinable fair value is required to be included in the fair value leveling table in accordance with FASB ASC 820-10-35-37. In accordance with "Pending Content" in FASB ASC 820-10-35-54B, an investment within the scope of paragraphs 4 through 5 of FASB ASC 820-10-15 for which fair value is measured using NAV per share (or its equivalent) as a practical expedient should not be categorized within the fair value hierarchy. (See the "FASB ASU No. 2015-07, *Fair Value Measurement (Topic 820): Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)*" section of this alert for further discussion on using NAV as a practical expedient.) Management is responsible for determining whether an equity security has a readily determinable fair value and providing the appropriate disclosures in the plan's financial statements.

Disclosures When a New FASB Codification Update Is Issued

.23 FASB ASC 250, *Accounting Changes and Error Corrections*, provides guidance on the disclosures related to a newly issued codification update. FASB ASC 250-10-45-2 requires a reporting entity to change an accounting principle if the change is required by a newly issued codification update. Paragraphs 1 through 3 of FASB ASC 250-10-50 describe the information an entity is required to disclose about a change in accounting principle. These disclosures are required in the fiscal year in which the change is made.

.24 A FASB ASU may reach conclusions about transition and include a discussion in the "Basis for Conclusions" section of the ASU, including conclusions about whether disclosures about changes in accounting principles in paragraphs 1 through 3 of FASB ASC 250-10-50 should apply to the amendments. The following topics in this alert discuss such guidance in the "Transition Guidance" section of these topics:

- FASB ASU No. 2015-07, *Fair Value Measurement (Topic 820): Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)*
- FASB ASU No. 2015-12, *Plan Accounting: Defined Benefit Pension Plans (Topic 960), Defined Contribution Pension Plans (Topic 962), Health and Welfare Benefit Plans (Topic 965): (part I) Fully Benefit-Responsive Investment Contracts, (part II) Plan Investment Disclosures, (part III) Measurement Date Practical Expedient*
- FASB ASU No. 2017-06, *Employee Benefit Plan Master Trust Reporting*

Help Desk: Plans that file financial statements with the SEC (for example, plans that file Form 11-K) should disclose the effect on the plan's financial statements for new authoritative accounting guidance which has been issued but not yet adopted by the registrant. (SEC Staff Accounting Bulletin (SAB) No. 74 (Topic 11.M), Disclosure of the Impact that Recently Issued Accounting Standards Will Have on the Financial Statements of the Registrant When Adopted in a Future Period).

FASB ASU No. 2015-07, *Fair Value Measurement (Topic 820): Disclosures for Investments in Certain Entities That Calculate Net Asset Value per Share (or Its Equivalent)*

.25 In May 2015 FASB issued ASU No. 2015-07. FASB ASC 820, *Fair Value Measurement*, permits a reporting entity, as a practical expedient, to measure the fair value of certain investments using the net asset value per share (or its equivalent) of the investment. Prior to adoption of FASB ASU No. 2015-07, investments for which fair value is measured using the practical expedient were categorized within the fair value hierarchy on the basis of whether the investment is redeemable with the investee at NAV on the measurement date, never redeemable with the investee at NAV, or redeemable with the investee at NAV at a future date. FASB ASU No. 2015-07 removes the requirement to categorize investments for which fair value is measured using NAV as a practical expedient in the fair value hierarchy. Although the investment is not categorized within the fair value hierarchy, entities are required to provide the amount measured using the NAV (or its equivalent) practical expedient to permit reconciliation of the fair value of investments included in the fair value hierarchy to total investments measured at fair value on the statement of net assets available for benefits.

Help Desk: Using NAV as a practical expedient does not apply to investments with a readily determinable fair value, as discussed in FASB ASC 820-10-35. See paragraphs 8.25–.26 of the guide for discussion about using NAV as a practical expedient.

.26 In accordance with pending content in FASB ASC 820-10-50-6A, entities should disclose information about investments for which fair value is measured using NAV as a practical expedient to help financial statement users understand the nature and risks of the investments, including whether they are probable of being sold at amounts different from NAV. These disclosures include the following:

a. The fair value measurement (as determined by applying FASB ASC 820-10-35-59 through 35-62) of the investments in the class at the reporting date and a description of the significant investment strategies of the investee(s) in the class

b. For each class of investment that includes investments that can never be redeemed with the investees, but the reporting entity receives distributions through the liquidation of the underlying assets of the investees, the reporting entity's estimate of the period of time over which the underlying assets are expected to be liquidated by the investees

c. The amount of the reporting entity's unfunded commitments related to investments in the class

d. A general description of the terms and conditions upon which the investor may redeem investments in the class (for example, quarterly redemption with 60 days' notice)

e. The circumstances in which an otherwise redeemable investment in the class (or a portion thereof) might not be redeemable (for example, investments subject to a lockup or gate) (Also, for those otherwise redeemable investments that are restricted from redemption as of the reporting entity's measurement date, the reporting entity should disclose its estimate of when the restriction from redemption might lapse. If an estimate cannot be made, the reporting entity should disclose that fact and how long the restriction has been in effect.)

f. Any other significant restriction on the ability to sell investments in the class at the measurement date

g. If a group of investments would otherwise meet the criteria in FASB ASC 820-10-35-62 but the individual investments to be sold have not been identified (for example, if a reporting entity decides to sell 20 percent of its investments in private equity funds but the individual investments to be sold have not been identified) so the investments continue to qualify for the practical expedient in FASB ASC 820-10-35-59, the reporting entity should disclose its plans to sell and any remaining actions required to complete the sale(s)

.27 Investments eligible for the practical expedient, but for which the practical expedient has not been applied, must still be included in the fair value hierarchy. The requirement to make certain disclosures for all investments that are eligible to be measured at fair value using NAV as a practical expedient is eliminated. Rather, those disclosures are required only for investments to which the entity applies the practical expedient to estimate fair value.

Effective Date and Transition Guidance

.28 The amendments in FASB ASU No. 2015-07 are effective for public business entities for fiscal years beginning after December 15, 2015, and for interim periods within those fiscal years. For all other entities, the amendments are effective for fiscal years beginning after December 15, 2016, and for interim periods within those fiscal years. A reporting entity should apply the amendments retrospectively to all periods presented. Earlier application is permitted.

> ***Help Desk:*** Employee benefit plans are excluded from the definition of a *public business entity* in the master glossary of FASB ASC. (See the "FASB ASU No. 2016-01—*Financial Instruments Changes in Disclosure Requirements*" section of this alert for additional information on changes in the definition of public business entity.) Therefore, FASB ASU No. 2015-07 is effective for fiscal years beginning after December 15, 2016, for all employee benefit plans. Earlier application is permitted.

.29 The conclusions reached in paragraph BC16 of FASB ASU No. 2015-07, state that the reporting entity should be required to disclose only the nature of and reason for the change in accounting principle (that is, the requirements of in FASB ASC 250-10-50-1a). Refer to the "Disclosures When a New FASB Codification Update Is Issued" section of this alert for discussion about when an entity is required to disclose information about a change in accounting principle as a result of adopting FASB ASU No. 2015-07.

FASB ASU No. 2015-12, *Plan Accounting: Defined Benefit Pension Plans (Topic 960), Defined Contribution Pension Plans (Topic 962), Health and Welfare Benefit Plans (Topic 965): (part I) Fully Benefit-Responsive Investment Contracts, (part II) Plan Investment Disclosures, (part III) Measurement Date Practical Expedient*

.30 In July 2015, FASB issued ASU No. 2015-12 to reduce complexity in employee benefit plan accounting. FASB ASU No. 2015-12 contains three parts intended to simplify employee benefit plan reporting with respect to the following:

- Part I—Designates contract value as the only required measure for fully benefit-responsive investment contracts (FBRICs), which maintains the relevant information while reducing the cost and complexity of reporting for FBRICs. The amendments in part I of FASB ASU No. 2015-12 apply only to defined contribution pension and health and welfare plans that have a direct interest in a FBRIC.
- Part II—Simplifies the investment disclosures for all types of employee benefit plans.
- Part III—Provides for a measurement date practical expedient for plans with a fiscal year-end that does not coincide with a month-end. The amendments in part III apply to all types of employee benefit plans.

.31 The following sections provide more information about parts I, II, and III of FASB ASU No. 2015-12.

> ***Help Desk:*** FASB ASU No. 2015-12 does not amend FASB ASC 715, *Compensation—Retirement Benefits*, which provides plan sponsor accounting guidance. This ASU applies only to plan accounting guidance in FASB ASC 960, *Plan Accounting—Defined Benefit Pension Plans*, 962, *Plan Accounting—Defined Contribution Pension Plans*, and 965, *Plan Accounting—Health and Welfare Benefit Plans*.

Effective Date

.32 The amendments in FASB ASU No. 2015-12 are effective for fiscal years beginning after December 15, 2015. Early adoption is permitted. Plans can early adopt any of the three parts without early adopting the other parts. When a part is adopted, it must be adopted in its entirety.

Part I—Fully Benefit-Responsive Investment Contracts

.33 This section discusses the provisions in part I of FASB ASU No. 2015-12 that address the accounting and reporting of FBRICs, including the following:

- Synthetic investment contracts
- FBRICs held in a master trust
- Indirect investments in FBRICs through common or collective trust funds or similar investments
- Transition guidance

> ***Help Desk:*** FASB ASU No. 2015-12 does not change the definition of FBRIC. The definition of FBRIC may be found in the FASB ASC master glossary.

.34 Current guidance requires plans to measure FBRICs at both fair value (in accordance with FASB ASC 820) and contract value and to present an adjustment on the face of the financial statements to reconcile the two amounts. Plans also must make disclosures about FBRICs that are required by the guidance in FASB ASC 820 and the guidance for employee benefit plans in FASB ASC 962 and 965, as applicable. Part I of FASB ASU No. 2015-12 eliminates the requirement to measure FBRICs at fair value and provide the related fair value disclosures required by FASB ASC 820 (including the fair value hierarchy). Part I states that FBRICs held by employee benefit plans are not required to make the fair value disclosures in FASB ASC 825, *Financial Instruments*.

> ***Help Desk:*** Investment contracts and synthetic investment contracts that do not meet the definition of a FBRIC continue to be measured, presented, and disclosed at fair value in the financial statements. The fair value disclosures (including the fair value hierarchy) in FASB ASC 820 continue to apply.

.35 Other disclosures required by FASB ASC 962 and 965 were also eliminated, including the average yield earned by the plan and the methodology used to calculate the interest crediting rate. A requirement to disclose the total contract value of each type of FBRIC (for example, synthetic investment contracts or traditional investment contracts) was added.

Synthetic Investment Contracts

.36 A synthetic investment contract simulates the performance of a traditional investment contract through the use of financial instruments. A key difference between a synthetic investment contract and a traditional investment contract is that the plan owns the underlying assets of the synthetic investment contract. With a traditional investment contract, the plan owns only the investment contract itself that provides the plan with a call on the contract issuer's assets in the event of default. Synthetic investment contracts use a wrapper contract issued by a third party that provides market and cash-flow risk protection to the plan. (The third-party issuer of the wrapper is an entity other than the plan sponsor, administrator, or trustee and, in certain situations, may be the entity that issues the investment contract.)

.37 For synthetic investment contracts that meet the definition of a FBRIC, part I of FASB ASU No. 2015-12 contains the following provisions:

- Synthetic investment contracts are to be measured, presented, and disclosed as a single amount at contract value consistent with all other FBRICs.
- Fair value disclosures required by FASB ASC 820 (including the fair value hierarchy) are not required for synthetic investment contracts.
- FASB ASC 815 was amended to exclude the synthetic investment contract's wrapper(s).

.38 Though synthetic investment contracts that meet the definition of a FBRIC are presented as a single investment at contract value in the plan's financial statements, DOL regulations require each of the underlying investments in the synthetic contract (investments and wrapper(s)) to be listed individually in the supplemental Schedule H, Line 4i Schedule of Assets (Held at End of Year).

> ***Help Desk:*** The underlying investments of the synthetic investment contracts are required to be presented in the supplemental Schedule H, Line 4i Schedule of Assets (Held at End of Year). As such, sufficient auditing procedures should be performed on these investments in a full-scope audit to permit the auditor to determine whether the information in the supplemental schedule is fairly stated, in all material respects, in relation to the financial statements as a whole, in accordance with AU-C section 725, *Supplementary Information in Relation to the Financial Statements as a Whole* (AICPA, *Professional Standards*). In a limited-scope audit, a certification should be obtained for these underlying investments to be able to report on the form and content of the supplemental schedule in accordance with the DOL's rules and regulations.

FBRICs Held in a Master Trust

.39 FBRICs held in a master trust are subject to the same presentation and disclosure requirements as if held by the plan directly instead of within a master trust. FASB ASC 960-30-45-11 was not amended by part I of FASB ASU No. 2015-12. The plan's investment in the master trust continues to be presented as single line item in the statement of net assets available for benefits.

Indirect Investments in FBRICs Through Common or Collective Trust Funds or Similar Investments

.40 *Fully benefit-responsive investment contracts*, as defined by the FASB ASC glossary, are limited to direct investments between the plan and the issuer. Plans may indirectly hold fully benefit-responsive investment contracts through beneficial ownership of common or collective trust funds (CCTs) (which own investment contracts). Insurance company pooled separate accounts (PSAs) that hold investment contracts also have similar characteristics. Indirect investments in FBRICs through investment companies (for example, those included in the underlying investments of stable value CCTs) are not in the scope of part I of FASB ASU No. 2015-12. Accordingly, the plan's investment in the CCT or PSA is required to be reported at fair value. Chapter 8 of the guide discusses required disclosures related to fair value measurements in accordance with FASB ASC 820, including the fair value measurement of investments in certain entities that calculate net asset value per share.

Part I—Transition Guidance

.41 The provisions of part I of FASB ASU No. 2015-12 are to be applied retrospectively to all periods presented. The conclusions reached in paragraph BC17 from part I of FASB ASU No. 2015-12, states that the reporting entity should be required to disclose only the nature of and reason for the change in accounting principle (that is, the requirements of FASB ASC 250-10-50-1a). Refer to the "Disclosures When a New FASB Codification Update Is Issued" section of this alert for discussion about when an entity is required to disclose information about a change in accounting principle as a result of adopting part I of FASB ASU No. 2015-12.

Part II—Plan Investment Disclosures

.42 FASB ASC 960, 962, 965 and the fair value guidance in FASB ASC 820 currently require different disaggregation of plan investments for disclosures. FASB ASC 820 requires disaggregation "by class" (such as the nature, characteristics and risks of the investment), while FASB ASC 960, 962, and 965 require investments to be disaggregated by "general type" (for example, common stocks, corporate bonds, and mutual funds) for plan disclosures.

.43 Part II of FASB ASU No. 2015-12 allows a plan to disaggregate its investments at fair value by general type of investment, either on the face of the financial statements or in the notes to the financial statements. Plans are no longer required to also disaggregate its investments by class. Disaggregating investments by general type is consistent with the level of disaggregation provided by most trustees, custodians, and insurance companies and with the information required in Form 5500.

.44 Part II of FASB ASU No. 2015-12 also provides for self-directed brokerage accounts to be considered a single general type of investment.

> ***Help Desk:*** Although self-directed brokerage accounts are presented as a general type of investment, it is important for the auditor to continue to consider the underlying investments when developing audit strategy in a full-scope audit.

.45 Part II of FASB ASU No. 2015-12 also eliminates the requirements to disclose

- the net appreciation or depreciation in fair value of investments by general type;
- individual investments with a value equal to or greater than 5 percent of net assets available for benefits; and
- information about the significant investment strategies for an investment in a fund for which NAV per share (or its equivalent) is used as a practical expedient for fair value if the investment fund files an annual report on Form 5500 as a direct filing entity.

Help Desk: The conclusions reached in paragraph BC22 of part II of FASB ASU No. 2015-12 state that although the disclosure requirement for investments that represent 5 percent or more of net assets available for benefits will be eliminated, plans are still required to comply with the disclosure requirements in FASB ASC 275, *Risks and Uncertainties*, and FASB ASC 825, relating to concentration of credit risk.

.46 Additionally, "Pending Content" in FASB ASCs 960-30-45-2, 962-205-45-7, and 965-20-45-3 continues to require the presentation of investment income, exclusive of changes in fair value (net appreciation or depreciation in fair value).

Part II—Transition Guidance

.47 The provisions in part II of FASB ASU No. 2015-12 are to be applied retrospectively to all prior periods presented. The conclusions reached in paragraph BC31 from part II of FASB ASU No. 2015-12 states that the reporting entity should be required to disclose only the nature of and reason for the change in accounting principle (that is, the requirements of FASB ASC 250-10-50-1a). Refer to the "Disclosures When a New FASB Codification Update Is Issued" section of this alert for discussion about when an entity is required to disclose information about a change in accounting principle as a result of adopting part II of FASB ASU No. 2015-12.

Part III—Measurement Date Practical Expedient

.48 Part III of FASB ASU No. 2015-12 allows a plan with a fiscal year-end of other than a calendar month-end to measure its investments and investment-related accounts using the month-end date that is nearest to its fiscal year-end (alternative measurement date). FASB recognized that the use of a month-end date to measure investments and investment-related accounts is consistent with how trustees or custodians provide information used to prepare the financial statements.

.49 When applying this practical expedient, the plan is required to disclose the alternative measurement date and the financial effects of contributions, distributions, or significant events that occur between the alternative measurement date and its fiscal year-end.

Part III—Transition Guidance

.50 The provisions of part III of FASB ASU No. 2015-12 may only be applied prospectively. The conclusions reached in paragraph BC12 of part III of

FASB ASU No. 2015-12 state that the reporting entity should be required to disclose only the nature of and reason for the change in accounting principle (that is, the requirements of FASB ASC 250-10-50-1a). Refer to the "Disclosures When a New FASB Codification Update Is Issued" section of this alert for discussion about when an entity is required to disclose information about a change in accounting principle as a result of adopting part III of FASB ASU No. 2015-12.

FASB ASU No. 2017-06, Employee Benefit Plan Master Trust Reporting

.51 In February 2017, FASB issued ASU No. 2017-06, *Employee Benefit Plan Master Trust Reporting*, to improve the usefulness of the information reported to users of employee benefit plan financial statements and to provide clarity to preparers and auditors. FASB ASU No. 2017-06 relates primarily to the reporting by a plan of its interest in a master trust. The amendments clarify presentation requirements for a plan's interest in a master trust and require more detailed disclosures of the plan's interest in the master trust. The amendments also eliminate a redundancy relating to 401(h) account disclosures.

.52 Presentation and disclosures for a plan that holds an interest in a master trust have been clarified or amended to require that a plan:

- Present its interest in each master trust and the change in its interest in each master trust in separate line items in the statement of net assets available for benefits and the statement of changes in net assets available for benefits, respectively.
- Disclose each general type of investment held by the master trust and the dollar amount of the plan's interest in each of those general types of investment held by the master trust (FASB ASU No. 2017-06 includes an example of this disclosure).
- Disclose the master trust's other assets and liabilities and the dollar amount of its interest in each of those other assets and liabilities (FASB ASU No. 2017-06 includes an example of this disclosure).

> ***Help Desk:*** Examples of other assets and liabilities include the following:
>
> a. Amounts due from brokers for securities sold
> b. Amounts due to brokers from securities purchased
> c. Receivables relating to derivatives
> d. Payables relating to derivatives
> e. Accrued interest and dividends
> f. Accrued expenses

- Disclose the net appreciation or depreciation in the fair value of investments in the master trust and investment income for each period that a statement of changes in net assets available for benefits is presented.
- Describe the basis used to allocate net assets and total investment income to the plan.

- Disclose its percentage interest in the master trust for each period that a statement of net assets available for benefits is presented. This disclosure applies only to a plan with an undivided interest in the master trust (that is, when the plan has a proportionate, rather than a specific, interest in the master trust). FASB ASU No. 2017-06 removes the requirement to disclose the percentage interest in the master trust for a plan with divided interests.

.53 The master trust disclosure requirements have been aligned in FASB ASC 960, 962, and 965 to be consistent for all types of plans.

.54 The conclusions reached in paragraph BC20 state that although generally accepted accounting principles (GAAP) do not currently require disclosures for the underlying investments held by a master trust (for example, disclosures in FASB ASC 815 and 820), the FASB Emerging Issues Task Force (the Task Force) understands that the majority of plans provide these disclosures on the basis of nonauthoritative guidance. This nonauthoritative guidance includes (*a*) AICPA Technical Practice Aid *TIS Section 6931.11, Fair Value Measurement Disclosures for Master Trusts*, and (*b*) the AICPA Audit and Accounting Guide *Employee Benefit Plans*. Although some Task Force members said that explicit GAAP requirements should be provided, other Task Force members thought there was no need for standard setting in this area. Ultimately, the Task Force decided not to address this issue noting that it does not appear to be a significant current practice issue for which standard setting is warranted, and there is no intent to change current practice.

.55 FASB ASC 965-205-50-5 was added to state that a health and welfare plan is not required to provide investment disclosures (for example, the disclosures required by FASB ASC 815 on derivatives and hedging and FASB ASC 820 on fair value measurement) for the 401(h) account assets. The plan should disclose the name of the defined benefit pension plan that allocated the funds to the health and welfare benefit plan and that provided the related investment disclosures.

Effective Date and Transition Guidance

.56 The amendments in FASB ASU No. 2017-06 are effective for fiscal years beginning after December 15, 2018. Early adoption is permitted. An entity should apply the amendments retrospectively to each period for which financial statements are presented.

.57 The conclusions reached in paragraph BC25 of FASB ASU No. 2017-06 state that the reporting entity should be required to disclose only the nature of and reason for the change in accounting principle (that is, the requirements of FASB ASC 250-10-50-1a). Refer to the "Disclosures When a New FASB Codification Update Is Issued" section of this alert for discussion about when an entity is required to disclose information about a change in accounting principle as a result of adopting FASB ASU No. 2017-06.

FASB ASU No. 2016-01—Financial Instruments Changes in Disclosure Requirements

.58 In January 2016, FASB issued ASU No. 2016-01, *Financial Instruments—Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities*. Prior to FASB ASU No. 2016-01, FASB ASC 825-10-50 generally required public entities or nonpublic entities with more than $100 million in assets to make certain disclosures related to the fair value of financial instruments not recorded at fair value on the statement of net assets available for benefits.

.59 The required disclosures affected employee benefit plans that are required to file Form 11-K with the SEC as well as plans with more than $100 million in assets. The disclosures typically related to the fair value of contributions receivable, accrued income, pending trades, and notes payable (for leveraged ESOPs). These disclosures included the following:

a. The fair value of the financial instruments for which it is practical to estimate that value

b. The method(s) and significant assumptions used to estimate the fair value of financial instruments (excluding the quantitative disclosures about significant unobservable inputs used in the fair value measurements categorized within Level 3 of the fair value hierarchy)

c. A description of the changes in method(s) and significant assumptions used to estimate the fair value of financial instruments, if any, during the period

d. The level of the fair value hierarchy within which the fair value measurements are categorized in their entirety (Level 1, 2, or 3)

.60 One of the amendments in FASB ASU No. 2016-01 was the elimination of the fair value of financial instrument disclosure requirements for all employee benefit plans. The amendments changed the applicability of the disclosure from "Publicly Traded Company" to "Public Business Entity." Additionally the amendments added the master glossary term, *Public Business Entity*, to FASB ASC 825-10-20. The definition of public business entity states neither a not-for-profit entity nor an employee benefit plan is a public business entity. FASB ASU No. 2016-01 clarifies that the fair value of financial instrument disclosures are only required for public business entities.

.61 Given the change in definition, on adoption of FASB ASU No. 2016-01, employee benefit plans are no longer required to make disclosures related to the fair value of financial instruments not recorded at fair value. This disclosure was generally a paragraph added to the fair value measurement disclosures, and, in the case of a leveraged ESOP, a paragraph in the notes payable disclosure.

.62 For employee benefit plans within the scope of FASB ASC 960, 962, and 965, the changes to FASB ASC 825-10, *Financial Instruments—Overall*, are effective for fiscal years beginning after December 15, 2018, however early adoption is permitted. For additional information on the amendments related to FASB ASU No. 2016-01, see www.fasb.org.

FASB ASU No. 2016-19, Technical Corrections and Improvements

.63 In December 2016, the FASB issued ASU No. 2016-19, *Technical Corrections and Improvements*. The amendments in this update cover a wide range of topics. Topics that relate to employee benefit plans are as follows:

- Amendment to master glossary: The definitions of *benefits* and *plan assets* were modified to clarify applicability to health and welfare plans.

- Amendment to FASB ASC 820-10, *Fair Value Measurement—Overall*: Corrects an inconsistency between the master glossary and FASB ASC 820-10-35-24A and 820-10-50-2(bbb) by amending the master glossary to identify cost approach, income approach, and market approach as approaches instead of techniques. The amendment also requires an entity to disclose when there has been a change in either or both a valuation approach or a valuation technique. The transition guidance for this amendment should be effective for fiscal years for all entities beginning after December 15, 2016. Early application is permitted for any fiscal year for which the entity's financial statements have not yet been issued (public business entities) or for which financial statements are available to be issued (all other entities). It should be applied prospectively because it may potentially involve the use of hindsight that includes fair value measurements.
- Amendment to FASB ASC 965-30, *Plan Accounting—Health and Welfare Benefit Plans—Plan Benefit Obligations*: Clarifies FASB ASC 965-30-35-6 that the events to be addressed in the rollforward of the benefits obligation valuation are those occurring between the most recent valuation date and the plan's year-end.

Auditing Issues and Developments

Electronic Information

.64 Most plan audits rely upon electronic information to support procedures performed and conclusions reached. Auditors use plan sponsor or service provider system-generated reports (for example, trust statements, recordkeeping reports, and payroll reports) for a variety of purposes, including the selection of samples for control or substantive testing. In addition, system-generated information (for example, payroll or participant data screen shots) is often used as a source of evidence to support various areas such as contributions or benefit payments. AU-C section 500, *Audit Evidence* (AICPA, *Professional Standards*), explains what constitutes audit evidence in an audit of financial statements and addresses the auditor's responsibility to design and perform audit procedures to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base the auditor's opinion. During planning, the auditor should evaluate the relevance and reliability of the system-generated reports and information to be used during the audits. The reliability of evidence depends on the nature and source of the evidence and the circumstances under which it is obtained. The reliability of system-generated audit evidence depends on the controls over the initiation, processing, and maintenance of such electronic information.

.65 Before relying upon electronic information as audit evidence, it is important for an auditor to consider the IT application used to generate the information, understand how the original information was entered or converted into the IT application, and understand how any reports were generated. For system-generated reports and information coming from service organizations, this understanding typically comes from reviewing SOC 1® reports. For electronic information coming from plan sponsor systems, from service organizations without SOC 1 reports, or from sources at a service organization not covered by a SOC 1 report, the auditor may need to test the input or conversion into the IT application to be able to rely upon the output. The input process may be manual, electronic, or both; and an auditor may need to understand and test more than one data flow to determine reliability of the IT application output. For reports used by the auditor, the auditor may need to perform further tests of completeness and accuracy to rely on the report for sample selections or other auditor procedures.

.66 In accordance with paragraph .09 of AU-C section 500, the auditor should evaluate whether information is sufficiently reliable for the auditor's purposes, including, as necessary, obtaining audit evidence about the accuracy and completeness of the information, which may include determining, in accordance with AU-C section 620, *Using the Work of an Auditor's Specialist* (AICPA, *Professional Standards*), whether to involve an auditor's specialist in that process.

.67 When placing reliance on electronic audit evidence for tests of controls and substantive procedures, auditors may establish a basis of reliance by

- determining the source of the audit evidence and the circumstances under which it is obtained (which manual process or IT application inputs the information and which IT application produces the information);
- performing tests of the electronic audit evidence (for example, reperform the circumstances under which it is obtained and entered into the IT application) to determine the completeness of the data flow from the original document or source to its electronic form;
- testing the mathematical accuracy of the electronic audit evidence; and
- understanding the internal controls relevant to the IT application producing the information (see appendix B, "Examples of Controls," of the guide for examples of controls).

.68 The auditor may rely on type 2 SOC 1 reports or may perform tests of controls to establish a basis for reliance to support the accuracy of electronic information, including tests of relevant IT controls. Refer to paragraph 4.25 of the guide for further information on requirements for evaluating and using SOC 1 reports. Also, refer to AICPA's Employee Benefit Plan Audit Quality Center (EBPAQC) Practice Aid on documenting the use of SOC 1 reports.

.69 If the auditor determines that the control environment does not support the prevention or detection and correction of material misstatements, the auditor may

- manually test the clerical accuracy of audit evidence or
- perform tests of the electronic information to determine the completeness of the data flows to and from original source documents.

.70 In accordance with paragraph .10 of AU-C section 500, if the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should determine what modifications or additions to audit procedures are necessary to resolve the matter and should consider the effect of the matter, if any, on other aspects of the audit.

Trends in Legal Action

.71 There has been an increase in litigation over the past year relating to defined contribution retirement plans. The themes of the lawsuits include unreasonable fees charged and failure to monitor plan fees charged to participant accounts, providing improper investment options, and failing to monitor investment performance. Many of the lawsuits allege the plan oversight governing body (or bodies) have not operated for the exclusive benefit of the participants.

.72 The litigation may relate to plan transactions with parties in interest that could be deemed prohibited under Sections 406 and 407 of ERISA. Paragraphs .17–.18 of AU-C section 250, *Consideration of Laws and Regulations in an Audit of Financial Statements* (AICPA, *Professional Standards*) and paragraphs 9.04–.06 of the guide, provides guidance for when the auditor becomes aware of information concerning an instance of noncompliance or suspected noncompliance with laws and regulations. Prohibited transactions under Sections 406 and 407 of ERISA are required, without regard to their materiality, to be disclosed in the Form 5500 and included in Schedule G, Part III-Nonexempt Transactions.

.73 The final outcome or settlement of the litigation may result in monies being due to the plan to be allocated to current or former participants. Amounts received from the settlement of litigation should be recorded when the plan has an enforceable right in accordance with the gain contingency provisions of FASB ASC 450-30, *Contingencies—Gain Contingencies*. Contingencies arising from prohibited transactions may also need to be disclosed in accordance with the requirements of FASB ASC 450, *Contingencies*.

Help Desk: Refer to paragraphs 2.95–.125 of the guide for further information on accounting and auditing for parties in interest transactions. In addition, see paragraph 10.11 of the guide for additional discussion on litigation, claims, and assessments.

Limited-Scope Certifications: Plan Administrator's Responsibilities

.74 Under certain circumstances, the plan administrator may elect to adopt an exemption as permitted by 29 CFR 2520.103-8 of the DOL Rules and Regulations for Reporting and Disclosure under ERISA (limited-scope audit), that allows the plan administrator, which includes plan management, to instruct the auditor not to perform any audit procedures with respect to assets held for investment purposes (hereinafter referred to as investment information) prepared and certified as complete and accurate by a bank, trust, or similar institution or by an insurance carrier that is regulated, supervised, and subject to periodic examination by a state or federal agency (qualified institution).

.75 Plan management is responsible for determining whether a limitation on the scope of the audit is permissible in the circumstances, in accordance with ERISA, including evaluating whether the certification is prepared by a qualified institution, and the certified investment information is complete and accurate. Plan management is also responsible for determining whether the certified investment information is appropriately measured, presented, and disclosed in accordance with the applicable financial reporting framework.

Help Desk: In a May 2002 Information Letter issued by the DOL (https://www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/information-letters/05-17-2002), the DOL noted the responsibility of the plan administrator to determine whether the conditions for limiting the scope of the audit, as set forth in ERISA and DOL regulations, have been satisfied.

.76 When determining whether the certification and certified investment information is adequate to allow the plan administrator to limit the scope of the audit, it is important for the plan administrator to determine whether either of the following apply:

- The certifying institution is qualified under DOL Rules and Regulations for Reporting and Disclosure under ERISA
- The certification is signed by a person authorized to represent the qualified institution
- When the certification is issued by an entity other than the qualified institution holding the plan assets, the entity providing the certification is in fact authorized to represent the qualified institution holding the plan assets (for example, acting as an agent for the qualified institution)
- The certified investment information includes assets that are held by a separate custodian (for example, there may be more than one custodian, and more than one certification may be required)
- The investments reported in the certified investment information are valued as of the plan's year end and in accordance with GAAP (for example, in cases when the plan invests in assets without readily determinable fair value, the reported investment values in the trustee or custodian reports may be based on the best information available to the trustee or custodian at the time the certification is prepared, which may not be the fair value as of the plan's year-end).

Help Desk: When a plan's investment strategy changes to include hard-to-value investments, such changes may result in an increase in investments not covered by a certification or may increase the risk that investments are not properly reported as of the plan's year end and in accordance with GAAP.

.77 The determination of whether the certification and certified investment information is adequate may be achieved by the plan administrator reviewing trustee or custodial arrangements, insurance contracts, and other service agreements, and holding discussions with third party service providers.

.78 The EBPAQC has developed a tool to help plan administrators and auditors understand responsibilities for determining the acceptability of a limited-scope certification and identify common deficiencies in limited-scope certifications. See the Audit Engagement Tool, "Common Deficiencies in Employee Benefit Plan Limited Scope Audit Certifications" at www.aicpa.org/interestareas/employeebenefitplanauditquality/resources/auditengagementtoolsandaids/Pages/default.aspx.

Help Desk: If the auditor becomes aware that the certified information is incomplete, inaccurate, or otherwise unsatisfactory, further inquiry of the plan administrator may be necessary, which may result in additional testing or modification to the auditor's report.

New Auditing Standard on Going Concern

.79 In February 2017, the ASB issued SAS No. 132, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern,* which addresses the auditor's responsibilities in the audit of financial statements relating to the entity's ability to continue as a going concern and the implications for the auditor's report. This SAS supersedes SAS No. 126 of the same name.

.80 In the United States, the AICPA's GAAS addressed going concern in SAS No. 126. At the time SAS No. 126 was issued, FASB's accounting standards did not address management's responsibilities for evaluation of substantial doubt about an entity's ability to continue as a going concern. However, FASB was contemplating the development of an accounting standard addressing going concern evaluation. As a result, SAS No. 126 clarified SAS No. 59 of the same title, but did not converge with the International Auditing and Assurance Standards Board's (IAASB's) auditing standard on going concern which was predicated on management having responsibility for that evaluation.

.81 In August 2014, FASB issued ASU No. 2014-15, *Going Concern*, to address management's responsibilities with respect to going concern. The ASU is effective for annual periods ending after December 15, 2016, and for interim periods thereafter.

.82 In January 2015, the IAASB issued its revised auditor reporting standards which, among other things, included revisions to its going concern standard, International Standards on Auditing (ISA) 570, *Going Concern*. A key change in the revised ISA 570 was expanded descriptions of the management's and auditor's responsibilities regarding going concern. The IAASB's auditor reporting standards, including ISA 570, are effective for audits of financial statements for periods ending on or after December 15, 2016.

.83 The following are a few of the key changes in SAS No. 132:

- Clarification that the auditor's objectives include separate determinations and conclusions with respect to
  - — whether the entity should be using the going concern basis of accounting in the preparation of the financial statements and
  - — whether substantial doubt about an entity's ability to continue as a going concern for a reasonable period of time exists, based on the audit evidence obtained
- A new requirement with respect to financial support by third parties or the entity's owner-manager when management's plans include financial support by third parties or the entity's owner-manager
- A requirement for auditor to obtain sufficient appropriate audit evidence about the intent and ability of third parties to provide the necessary financial support when management's plans include

financial support by third parties or the entity's owner-manager and if that evidence is necessary to support management's assertion about the entity's ability to continue as a going concern for a reasonable period of time

- A requirement for the auditor to ask management about conditions or events beyond the period of management's evaluation that may affect the entity's ability to continue as a going concern. The inquiries are not intended to require management to extend its evaluation period, but may affect other disclosure requirements or consideration of whether the financial statements are fairly presented

.84 SAS No. 132 is effective for audits of financial statements for periods ending on or after December 15, 2017, and for reviews of interim financial information for interim periods beginning after fiscal years ending on or after December 15, 2017.

Help Desk: For additional information regarding SAS No. 132 see www.aicpa.org/InterestAreas/FRC/AuditAttest/Pages/AuditAttestServices.aspx.

Employee Benefit Plan Guide Update

.85 The guide has been updated as of January 1, 2017, for recently issued accounting and auditing standards and for other relevant industry developments. The guide reflects the revised accounting due to the issuance of FASB ASU No. 2015-12. The AICPA is continuing to offer the 2015 edition of the guide as a resource for users following the requirements prior to the effective date of this ASU.

11-K Filers

Name of the Engagement Partner

.86 Based on new rules adopted by the PCAOB in December 2015, audit firms will be required to disclose the name of the audit engagement partner. The names of other audit firms participating in each audit, including other firms in the same network of firms will also have to be disclosed. A new PCAOB form, "Auditor Reporting of Certain Audit Participants," (Form AP) will be required to be filed by the auditor for each issuer audit and should disclose:

- the name of the engagement partner; and
- for other accounting firms participating in the audit
  - there is 5 percent or greater participation: the name, city, and state (or if outside the United States, the city and country), and the percentage of total audit hours attributable to each other accounting firm whose participation in the audit was at least 5 percent of total audit hours, or
  - less than 5 percent participation: the number of other accounting firms that participated in the audit whose individual participation was less than 5 percent of total audit

hours, and the aggregate percentage of total audit hours of such firms.

.87 Form AP will be available in a searchable database on the PCAOB website. Form AP is due within 35 days after the date the auditor's report is first included in a document filed with the SEC. The engagement partner disclosure requirement will be effective for auditor's reports issued on or after January 31, 2017. The other participating audit firms' disclosure requirements noted previously in paragraph .118 of this alert will be effective for reports issued on or after June 30, 2017.

Help Desk: For more information on the new PCAOB disclosure requirements, please see the PCAOB rules at pcaobus.org/Rules/Rulemaking/Docket029/Release-2015-008.pdf.

Reorganization of PCAOB Auditing Standards

.88 In March 2015, the PCAOB adopted amendments to reorganize the PCAOB's existing interim standards and PCAOB-issued auditing standards into a topical structure with a single, integrated numbering system, along with certain technical amendments to its rules and standards. The new organizational structure is intended to improve the usability of the PCAOB's standards and help users navigate the standards more easily. The amendments do not impose new requirements on auditors or change the substance of the requirements for performing and reporting on audits under PCAOB standards. The reorganization and related amendments became effective as of December 31, 2016.

Defined Benefit Pension Plans

.89 Since the last alert, DB plans continue to have unique issues such as, retirement ages beyond a plan's normal retirement age, new mortality improvement scales, plan freezes, and plan terminations. This section discusses these and other topics affecting DB plans.

Spot Rate Approach: Applicability for Plans Reporting under FASB ASC 960

.90 A new approach has emerged recently which is now being used to determine the service cost and interest cost components of net periodic pension cost for plan sponsor reporting under FASB ASC 715. This approach is commonly referred to as the Spot Rate Approach or the Full Yield Curve Approach. SEC staff recently indicated that the agency would not object to a registrant changing to this alternative approach or treating such a change as a change in accounting estimate.

.91 There has been some confusion about the applicability of the Spot Rate Approach to plans reporting under FASB ASC 960. For plans that use an expected rate of return as the discount rate, the Spot Rate Approach has no applicability. However, for plans that use a settlement-based discount rate and apply this approach, the rollforward (the changes in accumulated plan benefits) of the FASB ASC 960 benefit obligation (whether presented on the face of the financial statements or in the note disclosures), will be affected. Application of this approach will produce a different amount of interest and a corresponding gain or loss compared to a plan using the traditional approach which uses a single average discount rate.

Mortality Table

.92 On October 22, 2016, the SOA released the projection scale Mortality Projection 2016 (MP 2016) which is an update from the MP 2015. However, this update was released subsequent to October 17, 2016 (the DOL extended filing date for plans with 2015 calendar year ends). Therefore, for plans filed prior to October 22, 2016, no consideration of the new projection scale is necessary until 2016 calendar year reporting.

.93 When determining the applicability of the MP 2016 projection scale in the measurement of the accumulated plan benefits to be disclosed in plan financial statements, the AICPA's Question and Answer (Q&A) section 3700.01, *Effect of New Mortality Table on Nongovernmental Employee Benefit Plans (EBPs) and Nongovernmental Entities That Sponsor EBPs* (AICPA, *Technical Questions and Answers*), provides helpful guidance on how and when to consider updated mortality tables in financial statements that have not yet been issued at the time update tables are published, including the effect when the plan obligations are presented at the beginning of the year. When reviewing the mortality assumptions used in the measurement of the accumulated plan benefits, it is important for auditors to document their considerations.

Accumulated Plan Benefits

.94 There has been a growing trend for retirements at ages beyond the normal retirement age defined in the plan document. Evidence of this can be seen in the experience of many plans and a noticeable trend in the actuarial assumptions used to anticipate actual retirement ages. Many plans have used assumptions that reflect probabilities of retirement at ages well beyond age 65. These plans often assume probabilities that retirements will continue to occur up to age 70.

.95 For plans which experience delayed retirements beyond the plan's normal retirement age (typically age 65), the benefits due to participants who have delayed their retirements can vary significantly depending upon the plan's provisions. The measurement of a plan's obligation must properly reflect those provisions. There are several circumstances which can result in different benefit payment amounts and corresponding obligations.

.96 For plans that provide for continued benefit accrual beyond the normal retirement date, the following represent common approaches:

- For plans that continue to provide benefit accruals through the date of actual retirement, the ultimate benefit to be paid at that time will be the greater of
  - — applying the plan's benefit formula to all years of service including those years beyond the normal retirement age and
  - — the accrued benefit at the normal retirement date increased actuarially to the actual benefit commencement date.

- A variation of the first alternative is to annually compare the benefit with an additional year of service to the prior year accrued benefit increased actuarially.
- If the plan allows for benefits to commence at the normal retirement date even though the participant continues to be employed, the participant can continue accruing additional benefits beyond the normal retirement date; but the ultimate accrued benefit at the actual retirement date can by offset by the actuarial value of the benefit payments already received. These situations can result in data issues such as duplicate records which reflect one participant as both an active employee and a retiree. This issue may affect participant data maintained by some actuaries due to actuarial software limitations, but may not be an issue for all plans.

.97 Plans that suspend benefit accruals at normal retirement date have other considerations:

- Plans that suspend benefits until actual retirement are required to send a suspension of benefits notice to participants who remain in employment beyond the normal retirement date. If the notice is sent timely, no actuarial increase is required until age $70^1/_2$. Failure to send a timely notice may require an actuarial increase from the normal retirement date up to the date of correction.
- If a plan is silent regarding whether benefits are suspended in the case of a delayed retirement, an actuarial increase from the normal retirement date to the actual retirement date would be required.
- Administering suspension notices are sometimes mishandled and can lead to increased benefit obligations.

.98 Because delayed retirements beyond the normal retirement date are becoming more common, the effect of these delayed retirements on a plan's benefit obligation may become more significant. In evaluating the significance of delayed retirements on a plan's benefit obligation, it is necessary to understand the plan's provisions, the rules related to these retirements, the determination of the benefits for participants already in pay status, and the measurement of the value of future retirements based on the plan's retirement assumptions.

.99 There are also certain administrative considerations associated with delayed retirements. Proper records need to be maintained to make sure that benefits are properly determined for delayed retirements and that actuarial valuation systems receive this information when determining the plan's obligations. Plans are also required to make appropriate efforts to locate deferred vested participants who are beyond normal retirement age.

Multiemployer Pension Reform Act of 2014 Benefit Suspension

.100 On January 27, 2017, the Department of the Treasury (Treasury) issued final authorization of the first instance of suspension regarding the temporary or permanent reduction of benefits under the Multiemployer Pension Reform Act of 2014 (MPRA). Enacted in December 2014, MPRA gives trustees of pension plans in critical and declining status the ability to avoid insolvency by reducing benefits—including benefits of current retirees—subject to various criteria and conditions. This benefit reduction is referred to as a benefit suspension. Any MPRA-approved benefit cuts may not reduce the benefit less than 110 percent of the Pension Benefit Guaranty Corporation's (PBGC's) guaranteed benefit amount which is approximately $13,000 per retiree per year.

.101 The approval process for a MPRA benefit suspension is rigorous and cannot take place until all required actions are completed. After a plan determines it is eligible to apply and that its benefits can be reduced in a way that will satisfy all of the applicable criteria and restraints, it may apply to the Treasury for approval. The plan must notify participants and beneficiaries of the application and provide an individualized estimate of the reduced benefits along with providing an opportunity for comment on the application. If the Treasury approves the application, the benefit suspension must be ratified by participant vote. Under MPRA, the approval is ratified unless a majority of all eligible plan participants and beneficiaries vote against it. If ratified, the final step is the Treasury's authorization to proceed with the benefit suspensions.

.102 Now that the Treasury has approved an application to reduce benefits, other plans in critical and declining status may make similar applications in the near term.

Pension Risk Management

.103 Over the last several years, many plan sponsors have considered de-risking their DB plans due to concerns about investment market volatility, changes in funding rules, increases in PBGC premiums, and mortality improvements. Pension plan risk management strategies may include actions such as liability redesign (for example, closing a plan to new participants), use of investment strategies (for example, use of dynamic asset allocation strategies), and liability risk transfers (for example, lump-sums and annuity purchases).

.104 When planning and performing audits of DB plans, consideration of de-risking strategies and whether contracts with insurance companies have been properly reported for GAAP and DOL purposes may be warranted. In addition, a plan's implementation of de-risking strategies may affect the auditor's risk assessment and the design of further audit procedures, based upon the following:

- Plan amendments (for example, to offer a lump-sum window)
- Changes to a plan's actuarial assumptions including the following:
  - Asset mix changes and the associated plan's expected return on assets (FASB ASC 960 discount rate)
  - Demographic assumption changes due to changes in covered participants
- Census data clean-up
- Changes in benefit payment processing (for example, increased volume of payments, form of payment [lump sums versus annuities])
- Ongoing liquidity requirements after lump-sum payouts are made
- Limitations on distributions based on a plan's funded status
- Residual liabilities for annuity purchases
- Non-discrimination considerations if de-risking event (for example, lump sum window) is offered only to a subset of a covered group
- Funding level of plan prior to and after lump-sum payments

Participant Data and Frozen Plans

.105 Plan sponsors continue to freeze their DB plans. A sponsor can freeze a DB plan in several ways. (See paragraphs 6.126–.127 of the guide for further information on the different ways plans can be frozen.) Although a plan may be frozen in some manner, the plan will typically stay in existence as long as necessary to pay already accrued benefits. It is important for auditors to remember that freezing the plan does not mean that the pre-freeze date information is no longer relevant to the audit because it is still relevant to the plan's actuarial present value of accumulated plan benefits, benefit payments, and funded status.

.106 Areas of special consideration when testing the reliability and completeness of the census data in an audit of a frozen plan's financial statements include the following (not all-inclusive):

- Whether certain active participants continue to accrue benefits
- Whether benefit payment calculations were performed at the freeze date for all participants (active and deferred vested)
- Whether the movements among the categories in the accumulated plan benefit disclosure are appropriate given the status of the participant (active, deferred vested, retired)
- Whether accrued benefit testing can be performed such that testing can be relied upon in future audits (census and benefit payment testing)
- What carry-forward working paper documentation is needed

Help desk: It is important for the auditor to consider procedures performed in prior years when establishing a baseline for frozen plans. If the auditor is able to obtain sufficient appropriate audit evidence to test the completeness and accuracy of census data at the time of a freeze, the auditor may be able to limit future testing. If the auditor plans to rely on information from past audits to limit the nature, timing, or extent of work in the current period audit, it is important for the auditor to evaluate whether the prior years' testing results remain relevant and reliable and whether the sufficiency of the working paper documentation supports the baseline testing strategy. See the "Accumulated Plan Benefits and Participant Census Data" and "Terminating Plans (Full or Partial) or Frozen DB Plans" auditing sections in chapter 6 of the guide for further information on testing census data in frozen pension plans.

.107 When performing audit procedures in response to assessed risks of material misstatement relating to census data and benefit payments in a frozen plan, it is important for the auditor to determine whether it is appropriate to use audit evidence about the operating effectiveness of controls obtained in previous audits, and if so, the length of time that may elapse before retesting a control. Paragraph .13 of AU-C section 330, *Performing Audit Procedures in Response to Assessed Risks and Evaluating the Audit Evidence Obtained* (AICPA, *Professional Standards*), provides information on what the auditor should consider. Additionally, paragraph .14 of AU-C section 330 states that if the auditor plans to use audit evidence from a previous audit about the operating effectiveness of specific controls, the auditor should perform audit procedures to establish the continuing relevance of that information to the current audit.

The auditor should obtain this evidence by performing inquiry—combined with observation or inspection—to confirm the understanding of those specific controls. If there have been changes that affect the continuing relevance of the audit evidence from the previous audit, the auditor should test the controls in the current audit. If there have not been such changes, the auditor should test the controls at least once every third audit, and should test some controls during each audit to avoid the possibility of testing all the controls on which the auditor intends to rely in a single audit period, with no testing of controls in the subsequent two audit periods.

.108 When auditors evaluate whether they can rely on past testing (for example, assessment of its continued relevance and reliability of that testing), they might consider the following:

- Updating the audit team's understanding of the process for accumulating and updating the census data and how the data are transmitted to the actuary
- Inquiring as to any changes to the parties involved in the preparation and review process (such as the sponsor, actuary, or third-party service administrator) and the services performed by each, including the process for the following (not all inclusive):
  - How newly eligible participants (if any) get entered into the census data
  - How changes for events—such as marriage, divorce, retirement, or death—are updated in the data
  - How corrections of known errors are recorded
  - How plan management ensures participants are removed from the plan records after final payment from the plan
  - Whether there have been any amendments, addendums, or changes to the information

.109 Paragraph .31 of AU-C section 330 states that if the auditor plans to use audit evidence about the operating effectiveness of controls obtained in previous audits, the auditor should include in the audit documentation the conclusions reached about relying on such controls that were tested in a previous audit. For a plan audit, this might include the following:

- Roll forward of the information (including its context) to the current year file and update, as needed, to include the most up-to-date information
- Document how the auditor determined that the information is still relevant and the effect this will have on the current year audit
- Attach the original information (or a summary of it) and the changes to the information (if any) in the audit file
- If the auditor plans to rely on controls over a risk the auditor has determined to be a significant risk, the auditor should test the operating effectiveness of those controls in the current period. See paragraph .15 of AU-C section 330.

Maintaining Pertinent Records

.110 When benefits are based on historical data (for example, average compensation or hours worked), it may be challenging or difficult to obtain reliable census data, as sufficient historical records may be unavailable. Lapses in data can be caused for various reasons, such as

- following a general company record retention policy that is inconsistent with ERISA record retention requirements;
- the result of a corporate transaction (for example, plan merger, spinoff or changes in sponsorship);
- a change in service providers (for example, actuaries or other third-party administrators);
- a natural disaster (for example, fire or flood); and
- inadvertent destruction or disposal of records.

.111 As many DB plans continue to age, plan sponsors and service providers are having significant data-storage burdens, given the volume of paper and electronic records associated with these plans. A number of plan sponsors have experienced difficulty in maintaining all pertinent participant data relating to census data and benefit payments. Often, plan sponsors do not maintain the proper detail supporting the deferred vested benefits (for example, eligibility records, individual census data, compensation records, and employee work history).

.112 Irrespective of the various document retention requirements under federal and individual state laws, two basic record retention provisions exist under ERISA:

- Section 107 of ERISA requires anyone who must (*a*) file a report (such as Form 5500), or (*b*) certify information under Title 1 of ERISA to maintain sufficient records to verify, explain, or clarify the information contained in such reports for not less than six years after the filing of the report.
- Section 209 of ERISA requires every employer to maintain records necessary to determine benefits due or that may become due to each of its employees.

.113 As a result, it is important for plan sponsors to maintain records regarding plan benefits indefinitely (either in their original paper form or electronically under certain conditions), or at least as long as a possibility exists that they may be relevant to a determination of the benefit entitlements of a participant or beneficiary. Failure to retain necessary documents, even if not specifically required to be kept by law, can result in significant costs and fees (for example, recreation of record or litigation defense). Plan sponsors may find it prudent to consult with ERISA counsel or other specialists regarding record retention requirements.

.114 The inability to test participant data or benefit payments may be considered a limitation on the scope of the audit. In these situations, the auditor will need to determine how significant the restrictions on the scope of the audit are to the overall engagement (for example, the effect on the reported actuarial present value of accumulated plan benefits, benefit payments, or the funded status of the plan) and to determine the effect on the auditor's report.

.115 Paragraph .20 of AU-C section 700, *Forming an Opinion and Reporting on Financial Statements* (AICPA, *Professional Standards*), states that when an auditor is unable to obtain sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement, the auditor should modify the opinion in the auditor's report in accordance with AU-C section 705, *Modifications to the Opinion in the Independent Auditor's Report* (AICPA, *Professional Standards*). Paragraph .A8 of AU-C section 705 states that the auditor's inability to obtain sufficient appropriate audit evidence (also referred to as a limitation on the scope of the audit) may arise from the following:

- Circumstances beyond the control of the entity
- Circumstances relating to the nature or timing of the auditor's work
- Limitations imposed by management

.116 The missing participant data issue often materializes when a change in auditor occurs, especially for DB plans. Often, the predecessor auditor has been auditing the participant data for several years and has evidence of the participant data they have tested in their working papers. However, if the participant data has not been adequately maintained, the successor auditor may have a limitation on the scope of the audit. Prior to accepting a new benefit plan engagement, auditors may need to take special care in determining if missing participant data is a risk.

Help desk: As noted in the "Forming an Opinion" section in chapter 11 of the guide, the DOL will generally reject Form 5500 filings that contain modified opinions, other than the disclaimer of opinion issued in connection with a limited-scope audit pursuant to 29 CFR 2520.103-8. Plan sponsors with their auditors are encouraged to contact the DOL in advance of filing a modified opinion.

Terminating Plans

.117 Some plan sponsors have or are considering terminating their DB plans for many of the same reasons that some plan sponsors have engaged in de-risking activities. When planning and performing audits of a terminating DB plans, it is important for the auditor to consider the effect of the termination on the design of further audit procedures, including (but not limited to) any census data clean ups, changes in actuarial assumptions, changes in benefit payment processing (for example, increased volume of payments), and annuity contract purchases.

.118 FASB ASC 205-30 requires an entity to prepare its financial statements using the liquidation basis of accounting when liquidation is imminent. The AICPA Employee Benefit Plan Expert Panel developed Q&A sections 6931.18–.30 (AICPA, *Technical Questions and Answers*) to provide non-authoritative guidance when applying FASB ASC 205-30 to the accounting for primarily single employer DB and DC plans. Although the information contained in these Q&A sections may be specific to a single-employer DB or DC plan, the information may be relevant when considering the termination of all types of plans—including single employer health and welfare (H&W) plans and multiemployer plans.

.119 These Q&A sections discuss the different types of plan terminations and the related processes which may be helpful when determining whether liquidation is imminent. The Q&A sections also address numerous issues—such as the applicability of using the liquidation basis of accounting for partial plan terminations or plan mergers, the use of a beginning-of-year benefit information date, the presentation of the actuarial present value of accumulated plan benefits (including illustrative financial statements), and the presentation of comparative financial statements.

Health and Welfare Benefit Plans

.120 The Affordable Care Act (ACA) put in place a number of comprehensive reforms with various effective dates. Some of the reforms affect the plan sponsor or service providers while other reforms directly or indirectly affect H&W plans. It is important for the auditor of an H&W plan to understand the various provisions of the ACA and their possible effects on risk assessment, as well as accounting, auditing, and reporting for the plan. On January 20, 2017, President Donald J. Trump issued an executive order (EO) declaring his intention to seek the repeal of ACA, while minimizing economic and regulatory burdens of the ACA, ensuring that the ACA is efficiently implemented, and preparing to allow states more flexibility and control. Although the EO does not amend any prior agency action or policy, it has created uncertainty as to the future of ACA. For additional information related to certain current provisions of ACA see appendix B.

Economic and Demographic Assumptions

.121 Several economic and demographic assumptions are used in the actuarial valuations for defined benefit health and welfare plans to determine the actuarial present value of benefit obligations in accordance with FASB ASC 965. FASB ASC 965-30-35-21 describes the explicit assumptions used to measure postretirement benefit obligations.

.122 The reasonableness of each assumption needs to be evaluated separately by the plan sponsor and actuary when setting the assumptions and by the auditor when evaluating those assumptions.

Economic Assumptions

Discount Rate

.123 The selection of a discount rate is based on the interest rate at which the benefit obligations can be effectively settled as of the measurement date and should reflect current rates of return on high quality fixed-income investments. Further, the SEC staff has indicated that corporate bonds with ratings of AAA or AA should be considered high quality for purposes of valuing the provisions of FASB ASC 715. Often, the same discount rate is used for valuing obligations under FASB ASC 965.

.124 The widespread availability and ease of use of more complex tools has created an environment where there are several alternative methods of determining the discount rate.

.125 The following are more common alternatives:

- Matched—This approach is based on constructing a hypothetical bond portfolio which has cash flows closely matching the plan's projected benefit cash flows. The market value of the bond portfolio becomes the plan's benefit obligation. The discount rate is the single rate that when applied to the cash flows produces that same obligation.

- Yield curve—This approach references a yield curve which is constructed with a large number of appropriately rated bonds and discounts the plan's projected benefit cash flows along that curve. This produces a present value which is the benefit obligation. As is the case with a bond matching approach, once the benefit obligation is determined, the discount rate is the single rate which, when applied to the cash flows, will produce that same benefit obligation.
- Index—This approach references high quality bond indices as a proxy for the discount rate that would be determined by an analysis of anticipated benefit payments. The index selected should have a duration similar to the duration of the benefit cash flows. If the durations are not similar, an adjustment to the index rate should be made to reflect the durational differences.

.126 The selection of the discount rate should be set in accordance with the plan's stated policy. The policy selected should be applied consistently from period to period so that the rate reflects the general change in interest rates since the prior measurement date.

.127 The auditor may consider obtaining the following audit evidence from management or the actuary to support the discount rate assumption:

- The specific source data used to support the discount rate.
- If the discount rate is based upon a projected benefit cash flow model with either a matched bond portfolio or a yield curve analysis, the actual bond model or yield-curve analysis along with a full description of the process used to select the bonds.
- If the discount rate is based upon a published index, documentation showing how the timing and amount of cash outflows in the index matches the estimated cash flows for benefit payments. In addition, if adjustments are made to the index, documentation to support the adjustment.

Salary Progression

.128 Compensation increases are used to project an individual's future compensation in an H&W plan that provides benefits based on compensation (for example, life insurance benefits) or if the plan is cost-sharing and the retirees pay a percentage of their salary at retirement. The compensation scale assumption reflects expected inflation, productivity, seniority, promotion and other factors that affect wages. This assumption may be a single rate; alternatively, it may vary by age or service, consistent with the merit scale component; or it may vary over future years, consistent with the inflation component.

.129 The auditor should consider factors specific to the plan and the plan sponsor, such as current compensation practices, anticipated changes to compensation practices, current compensation distributions by age or service, historical compensation increases, practices of the participating employer and other employers or geographic areas, collective bargaining, and historical national wage and productivity increases.

Medical Trend Rates

.130 The medical trend rate is the assumed annual growth in healthcare costs. Historical rates often start around 7 to 8 percent, decrease by 0.50 percent a year until the ultimate rate, such as 4.5 percent to 5 percent, is attained; and then it stays constant thereafter. This assumption, particularly the short term rate may be outside normal ranges based on plan specific factors such as plan design, administrative controls, and recent experience. More recently there has been a trend to conform to the SOA Getzen Model, which is a more detailed approach with specific inputs. The Getzen Model projects healthcare costs for 50 to 60 years before it levels out. Typically, there are different trend rates for pre-65 and post-65 coverage for both medical and prescription drug coverage. The medical and prescriptions drug rates may be blended into a single set of trend rates for pre-65 and one for post 65 coverage or into a single weighted average rate.

Long-term Rate of Return on Assets

.131 The long-term rate of return on assets is used to determine the expected return on assets during the year. This assumption reflects the average rate of earnings expected on current and future investments to pay benefits. It is often developed using a building-block approach based on portfolio modelling with forward looking assumptions. Plan management should evaluate the appropriateness of the rate each year based on current and projected information. When evaluating the reasonableness of management's assumption regarding the long-term expected rate of return, it is important for the auditor to avoid evaluating the reasonableness of this assumption solely based on retrospective analysis of historical investment returns or comparison to the rate used by other plans.

.132 In many plans, investment returns are subject to taxation unlike DB pension plans. For plans that are subject to taxation, this assumption should reflect the after-tax rate of return.

Demographic Assumptions

.133 Demographic assumptions are those assumptions that are determined based upon the participant group make-up and expected behavior and life expectancy. Actuaries may use probability rates to model the uncertainty of participant behaviors. It is important to note that unlike economic assumptions that may be the same for many plans, demographic assumptions tend to be very specific to a given employer's workforce and covered population.

.134 Some typical demographic assumptions used to determine the present value of the postretirement benefit obligation include the following:

- Participation Assumption—What percentage of employees are expected to elect coverage upon retirement? This is an important assumption because most plans require retiree contributions, so typically less than 100 percent participation is assumed.
- Duration of Benefits—How long will employees receive coverage under the plan? This assumption may be influenced by the terms of the plan document (for example, up to age 65, lifetime coverage). For a lifetime coverage plan, frequently it is assumed that the retirees currently receiving benefits will remain in the plan for life.

- Spousal Assumptions—For those plans that offer spousal or dependent coverage, the percent married, the assumed age difference between the spouses and the percent of spouses that will elect coverage are all important assumptions.
- Mortality—Unlike DB plans that commonly use a version of the RP 2014 table which is based on benefit weighted rates, healthcare plans do not typically lend themselves to weighting the mortality rates by benefit amounts. Instead, weighting by headcount is more appropriate. Therefore, many healthcare plans use a headcount weighted version of the RP 2014 Table called the RPH-2014 Table.
- Retirement, termination, Disability, and Death Rates – How long will participants continue to work? Will participants die or become disabled prior to retirement? These rates are affected by the plan's provisions as well as industry and occupation.

Other Assumptions

.135 Other assumptions used to determine the present value of the postretirement benefit obligation may also include the following, which is not intended to be all inclusive:

- Medicare coordination
- Per capita claims cost development—if not premium based how costs are developed, for example, claims analysis
- Aging assumption as they apply to premiums if in a community-rated plan
- ACA, for example applicability of Cadillac Tax and estimated affect

Retiree Reimbursement Account/Arrangement

.136 A retiree reimbursement account/arrangement (RRA) is a reimbursement account that is set up and funded by the employer. RRAs may be used to reimburse eligible out-of-pocket medical expenses incurred during retirement, and if allowed by the plan, eligible expenses for the retiree's qualified dependents.

.137 RRAs may be funded, but generally, they are not funded. Thus, the separation of funds is an accounting notion only because there is no legal distinction between the RRA and the employer's general assets; it is a notional account. The amount credited to each RRA is determined by the plan document. The amount is often a flat dollar amount per month of eligibility. The amounts in the RRA will roll over from month-to-month and year-to-year if not used. During the plan year, if eligible claims submissions exceed the available account balance, the claim will not be paid and will be held in suspense until sufficient funds exist to fund the reimbursement. At the end of the plan year any remaining suspended claims will not be reimbursed. The plan will generally specify a period of time subsequent to year end, the "run out" period, when claims incurred during the plan year must be submitted by, in order to receive reimbursement.

.138 RRAs that are deemed to be a defined benefit like feature of an H&W plan, should be recorded by the plan a postretirement benefit obligation in accordance with FASB ASC 965-30-35. The audit procedures to be performed on the postretirement benefit obligation would be the same as those for a traditional H&W plan. In addition, because a hypothetical account for each participant is maintained, the auditor may consider testing a sample of participants' accounts to determine that the dollar amount credited to the participants' hypothetical account and reimbursements made from the participants' accounts comply with the provisions of the plan document.

Audit Quality

Tools to Further Audit Quality

AICPA EBPAQC

.139 The EBPAQC is a firm-based, volunteer membership center of more than 2,600 firms with the goal of promoting quality employee benefit plan audits. The EBPAQC has developed tools and resources to help members recognize and avoid common employee benefit plan audit deficiencies identified by peer reviewers and the DOL. Common EBP Audit Deficiencies and Planning Tool: Summary of Common EBP Audit Deficiencies, Audit Guidance, and Resources (EBPAQC member only), summarize the most common deficiencies and provide links to audit guidance, and EBPAQC and AICPA tools.

.140 The following table provides examples of EBPAQC tools and other resources that directly address some of the most common audit deficiencies (Note: many of the tools are accessible only to EBPAQC members).

Common Deficiency	EBPAQC Resource/Tool
Improper use of limited-scope exemption because financial institution did not qualify for such an exemption	• *Documentation of the Auditor's Evaluation of a Limited Scope Audit Certification* • *Common Deficiencies in Employee Benefit Plan Limited Scope Audit Certifications*
Incomplete description of the plan and its provisions	• *Summary of Key Plan Document Provisions Relevant to a Defined Contribution Retirement Plan Audit*
Failure to evaluate investment contracts for benefit responsiveness	• *Stable Value Investments Resource Center* • Topix Primer, *Stable Value Funds and Investment Contracts – An Overview* • Topix Primer, *Insurance Company Products Offered to Employee Benefit Plans*

(*continued*)

Common Deficiency	EBPAQC Resource/Tool
Failure to sufficiently perform and document reliance on SOC 1 reports	• *Documentation of Use of a Type 2 Service Auditor's Report in an Audit of an Employee Benefit Plan's Financial Statements* • *Employee Benefit Plans: SOC 1® Reports and Service Organizations Resource Center* • *Internal Control Resource Center*
Failure to sufficiently perform procedures related to benefit and claims payment testing including evaluating participant's eligibility, examining approvals and recalculation of benefit or claims amounts	• *Health and Welfare Plans Resource Center* • Topix Primer, *Health and Welfare Employee Benefit Plans* • *Summary of Key Plan Document Provisions Relevant to a Defined Contribution Retirement Plan Audit*
Failure to report significant plan information, such as related party (party in interest) transactions and prohibited transactions between a plan and a party in interest	• Topix Primer, *Employee Benefit Plans—Parties in Interest and Prohibited Transactions* • *Parties In Interest and Prohibited Transactions Resource Center*
Failure to obtain an understanding of the actuary's objectives, scope of work, methods and assumptions, and consistency of application on defined benefit plans	• *Documentation of Use of An Actuarial Report in an Audit of a Defined Benefit Pension Plan's Financial Statement* • *Defined Benefit Pension Plans Resource Center*
No or insufficient testing performed on appraisal/valuation report of employer stock (ESOPs)	• Documentation of the Evaluation of an Appraisal Used as Audit Evidence in an Employee Stock Ownership Plan Financial Statement Audit • Employee Stock Ownership Plans (ESOP) Resource Center
Failure to sufficiently perform participant testing related to demographic data and payroll	• Summary of Key Plan Document Provisions Relevant to a Defined Contribution Retirement Plan Audit

.141 In addition, the EBPAQC broadcasts exclusive member-only live forum webinars on relevant technical topics that are free to members or, for a nominal fee, members can receive CPE for watching the live webinars or rebroadcasts. The EBPAQC has scheduled the following webinars for 2017:

Title	Date/Time
Designated Partner Planning Live Forum—2017	January 27, 2017, 1:00-3:00 pm ET
11-K Audits Live Forum—2017	March 9, 2017, 1:00-3:00 pm ET
Designated Partner Planning Live Forum—2017 Rebroadcast	April 24, 2017, 1:00-3:00 pm ET
Managers & Supervisors Planning Live Forum—2017	April 28, 2017, 1:00-3:00 pm ET
ASU 2015-12 Practical Implementation Issues	May 3, 2017, 1:00-3:00 pm ET
401(k) Basics, Part 1—Introduction and Planning	May 4, 2017, 1:00-3:00 pm ET
Using the EBPAQC SOC 1 Tool	May 22, 2017, 1:00-3:00 pm ET
401(k) Basics, Part 2— Participant Data and Contribution Testing	May 19, 2017, 1:00-3:00 pm ET
401(k) Basics, Part 3— Distribution Testing, Audit Wrap-Up and Notes to Financial Statements	May 25, 2017, 1:00-3:00 pm ET
401(k) Basics, Part 4— Investments and Current Topics	June 1, 2017, 1:00-3:00 pm ET
Managers & Supervisors Planning Live Forum—2017 Rebroadcast	June 5, 2017, 1:00-3:00 pm ET
Designated Partner Planning Live Forum—2017 Rebroadcast	June 7, 2017, 1:00-3:00 pm ET
Designated Partner Planning Live Forum—2017 Rebroadcast	August 3, 2017, 1:00-3:00 pm ET

Help Desk: The archived versions for most of the prior webinars are available on demand on the EBPAQC website. It should be noted that no CPE will be given for viewing these archived webinars.

.142 The EBPAQC also provides timely E-alerts that include information about recent developments affecting employee benefit plan audits; a member-to-member discussion forum; practice management tools and aids intended to help members establish a quality employee benefit plan audit practice; and other audit engagement tools to help members perform quality ERISA audits.

Help Desk: Visit the center website at www.aicpa.org/ebpaqc to see a list of EBPAQC member firms and to preview EBPAQC benefits. For more information, contact the EBPAQC at ebpaqc@aicpa.org.

Preparing for Peer Review

.143 In most CPA firms, the quality of their audit practice is the subject of a review by a firm that is engaged to review both the corporate and employee benefit plan audit engagements during a given period. In fact, the EBPAQC requires member firms to make publicly available their most recently accepted peer review report as a condition for membership in the EBPAQC. Responsibility for the employee benefit plan portion of a peer review engagement will frequently fall to the firm's designated partner that oversees the ERISA employee benefit plan audit practice. When preparing for peer review the auditor may consider the following:

- Does your firm's infrastructure for tracking audit engagements allow you to compile a listing of all employee benefit engagements segmented by type of plan, location of office and year-end?
- Have you assessed the completeness of your population of plans to make sure no plans were omitted from the listing? (Consider comparing a sample of plans from a database of Form 5500s filed with the DOL to your internal listing.)
- Have affected engagement team members cleared their calendar to address any concerns on their engagements with the peer review team?

.144 Once engagements are selected, the auditor may consider having another employee benefit plan auditor within their firm perform a detailed review of the audit files using the PRP Section 20700 *Employee Benefit Plan Audit Engagement Checklist* to identify any potential documentation issues. It is important for the reviewers to pay particular attention to the following issues when reviewing the files:

- Failure to properly perform risk assessment
- Failure to sufficiently perform participant testing related to demographic data and payroll
- Failure to sufficiently perform and document reliance on SOC 1 reports
- Failure to sufficiently perform procedures related to benefit and claims payment testing, including evaluating participant's eligibility, examining approvals and recalculation of benefit or claim amounts
- Failure to report significant plan information, such as related party (party in interest) transactions and prohibited transactions between a plan and a party in interest
- Failure to obtain an understanding of the actuary's objectives, scope of work, methods and assumptions, and consistency of application on defined benefit pension plans
- Failure to present a complete Schedule of Assets (Held at End of Year)

.145 If the reviewer becomes aware of an auditing procedure that the auditor should have performed but which was not performed, they should follow the guidance in AU-C Section 585, *Consideration of Omitted Procedures after the Report Release Date* (AICPA, *Professional Standards*). In accordance with paragraph .07 of AU-C section 585, the auditor should promptly perform the omitted procedure, or alternative procedures, to determine whether there is a satisfactory basis for the auditor's previously expressed opinion. As stated in paragraph .A5 of AU-C section 585, if, in the circumstances addressed in paragraph .07 of AU-C section 585, the auditor is unable to perform a previously omitted procedure, or alternative procedures, to determine that there is a satisfactory basis for the auditor's previously expressed opinion, the auditor may decide to seek legal advice to determine an appropriate course of action concerning the auditor's responsibilities to the entity; regulatory authorities, if any, having jurisdiction over the entity; and users relying, or likely to rely, on the auditor's report. In addition, the auditor should include in the audit documentation the procedures performed, in accordance with the provisions of AU-C section 230, *Audit Documentation* (AICPA, *Professional Standards*).

.146 PRP Section 20,700 is updated each year and references applicable paragraphs in the professional standards including the guide. In order to help the peer reviewer obtain a better understanding of the audit firm's employee benefit plan practice, new questions have been added to the Engagement Profile of the checklist. Many times these questions are inappropriately answered by the practitioner indicating that they either have not performed the required procedures or do not possess the required training to audit an employee benefit plan. These questions include:

- What is the engagement team's background, including a description of the team's experience relevant to the engagement, and a listing of employee benefit plan specific training for all engagement personnel for the last three years?
- What are the key risk factors that were considered by the engagement team with regard to the plan, its environment, fraud, entity level controls, specific accounts, and where such factors are documented in the working papers?
- For an ERISA limited-scope audit, what is the name of the qualified certifying entity, if there was a change in the entity during the year, and if all investments were certified?
- For a SOC 1 report, which areas were relied upon to reduce substantive testing, where is the testing of complementary user entity controls for these areas documented, the name of the CPA firm issuing the report, and the period covered by the report?
- For initial audits (plans not previously audited or successor auditor), what procedures were performed on the beginning balances, accuracy of participant data, and where in the working papers is this documented? If the plan was previously audited, where is the communication with the predecessor auditor documented?
- Is the reviewer in agreement with the information provided in the engagement profile?

.147 Additionally, bolded questions in the checklist focus on audit areas noted as most frequently not being performed in accordance with professional standards. The Peer Review Board has concluded that a failure to properly perform audit procedures in one or more of these areas should be considered in determining whether the engagement has been performed in accordance with professional standards in all material respects. The current bolded questions relate to specific audit procedures regarding:

- Service Auditor Reports
- Participant Census Data

- Investments and Investment Income
- Contributions Testing
- Timeliness of Employee Salary Deferrals
- Benefit and Claims Testing
- Plan Obligations including Postretirement Obligations
- ESOP Allocations and ESOP Appraisals
- Initial Audits
- Appropriateness of the Auditor's Report Based on Audit Procedures

Recent Pronouncements

.148 AICPA auditing and attestation standards are applicable only to audits and attestation engagements of non-issuers. The PCAOB establishes auditing and attestation standards for audits of issuers. For information on pronouncements issued subsequent to the writing of this alert, please refer to the AICPA website at www.aicpa.org, the FASB website at www.fasb.org, and the PCAOB website at www.pcaob.org. You also may look for announcements of newly issued accounting standards in the CPA Letter Daily and the Journal of Accountancy.

Recent Auditing and Attestation Pronouncements and Related Guidance

.149 The following table presents a list of recently issued audit and attestation standards and related guidance.

Recent Auditing and Attestation Standards and Related Guidance	
Statement on Auditing Standards (SAS) No. 132, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern* (AICPA, *Professional Standards*, AU-C sec. 570) Issue Date: February 2017	This SAS addresses the auditor's responsibilities in the audit of financial statements relating to the entity's ability to continue as a going concern and the implications for the auditor's report. This SAS supersedes SAS No. 126 of the same name. It is effective for audits of financial statements for periods ending on or after December 15, 2017, and for reviews of interim financial information for interim periods beginning after fiscal years ending on or after December 15, 2017.

Recent Auditing and Attestation Standards and Related Guidance	
Interpretation No. 3, "Reporting on Audits Conducted in Accordance With Auditing Standards Generally Accepted in the United States of America and International Standards on Auditing," (AICPA, *Professional Standards*, AU-C section 9700 par. .08–.13) of AU-C section 700, *Forming an Opinion and Reporting on Financial Statements* (April 2016) (Interpretive publication)	This interpretation addresses and provides examples of how the auditor might report when the audit is conducted in accordance with generally accepted auditing standards (GAAS) and International Standards on Auditing.

Recent Accounting Standards Updates

.150 The following table presents, by codification area, a list of recently issued ASUs through the issuance of FASB ASU No. 2017-04, *Intangibles–Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. FASB ASC does include SEC content to improve its usefulness for public companies, but the content labeled as SEC staff guidance does not constitute rules or interpretations of the SEC nor does such guidance bear official SEC approval.

Help Desk: For a complete listing of ASUs, visit the FASB website at www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498.

Recent Accounting Standards Updates	
Technical Corrections and Improvements to FASB *Accounting Standards Codification*® (ASC)	
Accounting Standards Update (ASU) No. 2016-19 (December 2016)	*Technical Corrections and Improvements*
Presentation Area of FASB ASC	
ASU No. 2016-18 (November 2016)	*Statement of Cash Flows (Topic 230): Restricted Cash (a consensus of the FASB Emerging Issues Task Force)*
ASU No. 2016-15 (August 2016)	*Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments (a consensus of the Emerging Issues Task Force)*

(*continued*)

Recent Accounting Standards Updates	
Assets Area of FASB ASC	
ASU No. 2017-04 (January 2017)	*Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*
ASU No. 2016-13 (June 2016)	*Financial Instruments—Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*
ASU No. 2016-07 (March 2016)	*Investments—Equity Method and Joint Ventures (Topic 323): Simplifying the Transition to the Equity Method of Accounting*
ASU No. 2016-03 (March 2016)	*Intangibles—Goodwill and Other (Topic 350), Business Combinations (Topic 805), Consolidation (Topic 810), Derivatives and Hedging (Topic 815): Effective Date and Transition Guidance (a consensus of the Private Company Council)*
Liabilities Area of FASB ASC	
ASU No. 2016-04 (March 2016)	*Liabilities—Extinguishments of Liabilities (Subtopic 405-20): Recognition of Breakage for Certain Prepaid Stored-Value Products (a consensus of the Emerging Issues Task Force)*
Revenue Area of FASB ASC	
ASU No. 2016-20 (December 2016)	*Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers*
ASU No. 2016-12 (May 2016)	*Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients*
ASU No. 2016-10 (April 2016)	*Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing*
ASU No. 2016-08 (March 2016)	*Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)*
Expenses Area of FASB ASC	
ASU No. 2016-16 (October 2016)	*Income Taxes (Topic 740): Intra-Entity Transfers of Assets Other Than Inventory*
ASU No. 2016-09 (March 2016)	*Compensation—Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting*
Broad Transactions Area of FASB ASC	
ASU No. 2016-17 (October 2016)	*Consolidation (Topic 810): Interests Held through Related Parties That Are under Common Control*
ASU No. 2017-01 (January 2017)	*Business Combinations (Topic 805): Clarifying the Definition of a Business*

Recent Accounting Standards Updates	
ASU No. 2016-06 (March 2016)	*Derivatives and Hedging (Topic 815): Contingent Put and Call Options in Debt Instruments (a consensus of the Emerging Issues Task Force)*
ASU No. 2016-05 (March 2016)	*Derivatives and Hedging (Topic 815): Effect of Derivative Contract Novations on Existing Hedge Accounting Relationships (a consensus of the Emerging Issues Task Force)*
Industry Area of FASB ASC	
ASU No. 2016-14 (August 2016)	*Not-for-Profit Entities (Topic 958): Presentation of Financial Statements of Not-for-Profit Entities*
ASU No. 2017-02 (January 2017)	*Not-for-Profit Entities—Consolidation (Subtopic 958-810): Clarifying When a Not-for-Profit Entity That Is a General Partner or a Limited Partner Should Consolidate a For-Profit Limited Partnership or Similar Entity*

Recently Issued Technical Questions and Answers

.151 The information in AICPA *Technical Questions and Answers* is based on selected practice matters identified by the staff of the AICPA's Technical Hotline and various other bodies within the AICPA. These Q&A sections are non-authoritative and have not been approved, disapproved, or otherwise acted upon by any senior technical committee of the AICPA. Recently issued Q&A sections can be accessed at www.aicpa.org/InterestAreas/FRC/Pages/RecentlyIssuedTechnicalQuestionsandAnswers.aspx.

Regulatory Developments—DOL

DOL ERISA Advisory Council Activities

.152 The Advisory Council on Employee Welfare and Pension Benefit Plans (known as the DOL ERISA Advisory Council) provides advice to the Secretary of Labor on policies and regulations affecting employee benefit plans subject to ERISA. The 2016 Council studied the following two topics:

- Cybersecurity Considerations for Benefit Plans
- Participant Plan Transfers and Account Consolidation for the Advancement of Lifetime Plan Participation

.153 The 2016 Council examined cybersecurity considerations as they relate to pension and welfare benefit plans. The 2016 Council focused on providing useful information to plan sponsors, fiduciaries, and service providers in evaluating and developing a cybersecurity risk management program for benefit plans. They focused specifically on outlining elements of cyber risk management strategies that can be scaled, or adjusted, based on sponsor and plan size, type, resources and operation complexity. The 2016 Council leveraged previous Council's work—the 2011 Council examined privacy and security issues effecting employee benefit plans, and the 2015 Council also devoted some time to the topic of cybersecurity.

.154 The 2016 Council also followed up on issues identified and recommended for further study by the 2014 and 2015 Council's work on facilitating lifetime plan participation related to plan-to-plan transfers and account consolidations. The DOL asked the 2016 Council to study further the challenges involved with plan-to-plan transfers and account consolidations, and to make recommendations to facilitate these processes for the advancement of lifetime plan participation.

Help Desk: More information on the DOL ERISA Advisory Council, including reports and written statements provided by invited witnesses, can be found at https://www.dol.gov/sites/default/files/ebsa/about-ebsa/about-us/erisa-advisory-council/2016-cybersecurity-considerations-for-benefit-plans.pdf.

2016 Form 5500 Annual Report

.155 The DOL, IRS, and the PBGC have released the 2016 Form 5500 "Annual Return/Report of Employee Benefit Plan" and related instructions. The "Changes to Note" section of the 2016 instructions highlight important modifications to the Form 5500 and Form 5500-SF, including:

- IRS Compliance Questions: Although they appear on the 2016 Form 5500, Form 5500-SF, Schedules H, I, and R, the IRS has decided that filers should not enter the "Preparer's Information" at the bottom of the first page of Form 5500 for the 2016 plan year; and should not answer the IRS questions at Lines 4o and 6a through 6d of Schedules H and I and the "Part VII—IRS Compliance Questions" of the Schedule R. Similarly, filers who are using the Form 5500-SF to satisfy their annual reporting requirement should not complete the "Preparer's Information" at the bottom of the first page, "Part VIII-Trust Information," and "Part IX-IRS Compliance Questions" on the Form 5500-SF. Filers should skip these questions when completing the forms.
- Administrative Penalties: The instructions have been updated to reflect an increase in the maximum civil penalty amount assessable under ERISA section 502(c)(2) required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. DOL regulations published on July 1, 2016, increased the maximum penalty to $2,063 a day for a plan administrator who fails or refuses to file a complete or accurate Form 5500 report. The increased penalty under section 502(c)(2) is applicable for civil penalties assessed after August 1, 2016, whose associated violation(s) occurred after November 2, 2015—the date of enactment of the 2015 Inflation Adjustment Act.
- Schedules H and I: Line 5c is modified to add a new question. The existing Line 5c question asks, if a plan is a DB plan, whether it is covered by the PBGC insurance program. The new question asks filers that answered "Yes," to enter the My PAA-generated confirmation number for the PBGC premium filing for the plan year.

- Schedule SB. The instructions for CSEC plans, reported in Line 27, Code 1, have been updated to reflect guidance on certain issues relating to the application of the Cooperative and Small Employer Charity Pension Flexibility Act.

Help Desk: Informational copies of the forms, schedules, and instructions are available online at www.efast.dol.gov. Filers should monitor the EFAST website for the availability of the official electronic versions for filing using EFAST-approved software or directly through the EFAST website. Assistance with the EFAST2 system is available at www.dol.gov/ebsa/form5500tips.html or by calling 1-866-463-3278.

DOL Letters to Employee Benefit Plan Auditors Rounds Out Communication Plan to Help Improve Audit Quality

.156 In light of the results of the DOL's audit quality study whose report was issued in May 2015, the agency created a series of communications with three stakeholder groups aimed at raising the awareness of the results of the department's study and the importance of qualified auditors performing quality audits of employee benefit plans.

.157 In 2015, the DOL sent letters to each of the boards of accountancy who license CPAs who perform employee benefit plan audits. These letters focused on the findings of the audit quality study and to emphasize that only those who possess adequate technical expertise and proficiency should be permitted to audit employee benefit plans.

.158 Also in 2015, the DOL sent emails to more than 60,000 plan administrators of plans subject to audit. The emails discussed the findings of the audit quality study, reminded plan administrators of their responsibility to hire competent auditors for their plans, and provided tips for selecting and monitoring a quality auditor.

.159 In 2016, the DOL sent letters to more than 6,000 employee benefit plan auditors with practices of all sizes. Specifically, the letters:

- discussed the DOL's increased enforcement efforts given the findings of their audit quality study.
- alerted auditors to an increased exposure of their work product being inspected;
- warned that if the DOL identifies deficient audit work, plan clients can face significant civil penalties and the cost of having the plan re-audited. Furthermore, the CPAs may also have their deficient work referred to the AICPA's Professional Ethics Division and state licensing boards for disciplinary action.
- encouraged auditors to avail themselves of the wealth of guidance available to strengthen and improve their audit work.

Change in Leadership within the Office of the Chief Accountant

.160 In January 2017, the Chief Accountant of the DOL, Ian Dingwall, retired following more than 40 years of public service with the DOL, including almost 29 years with the Employee Benefits Security Administration (EBSA).

.161 Although Ian's federal service began elsewhere, he was DOL's Chief Accountant since 1988 when he created an office whose mission has been to enforce ERISA's reporting and disclosure requirements to protect the employee benefits of participants and beneficiaries. Integral to this work has been the office's work to improve the quality of benefit plan audits. Through a combination of enforcement and education with benefit plan stakeholders, Ian raised awareness of the importance of this cornerstone of ERISA and demanded that professionals be professionals.

.162 With Ian's retirement, Michael Auerbach has been named Acting Chief Accountant. Michael has been with the DOL since 1986 and with EBSA since 1988 when he was hired to head OCA's Division of Accounting Services.

Regulatory Developments—IRS

Determination Letters Downsizes

.163 On June 29, 2016, Revenue Procedure 2016-37, generally effective January 1, 2017, was released changing the:

- Determination Letter Program for tax-qualified individually designed plans (IDPs); and
- Requirements for when plan amendments must be adopted under IRC Section 401(b)

.164 Although Revenue Procedure 2016-37 covers many changes and plan sponsors should carefully review the revenue procedure, most relate to when an IDP:

- Must be amended for law and other guidance changes; and
- May request a determination letter

.165 The prior staggered five-year remedial amendment cycle for IDPs (which determines whether plan amendments for law and guidance changes are timely adopted) is replaced by an annual Required Amendments List which will establish the deadline for a plan to be amended for the new requirements (the IRS indicates that this will generally be the end of the second calendar year following the year in which the list is issued). Individually designed qualified retirement plans may no longer request period determination letters after January 1, 2017 as the staggered 5-year remedial amendment cycle for IDPs has been eliminated by the IRS. Plan sponsors will only be able to initiate request for determination letter for a plan if it has never received a letter before; the plan is terminating; or if the IRS makes a special exception. The IRS will continue to conduct examinations to assess plan compliance with plan document requirements. As a result, it will be important for IDPs to make sure they adjust to the new timing rules for required amendments to ensure that they do not inadvertently risk plan disqualification for failure to adopt amendments in time (the IRS calls this a "nonamender failure").

.166 However, Revenue Procedure 2016-37 also makes clarifying changes to the six-year remedial amendment cycle system for pre-approved qualified plans and modifies the six-year remedial amendment cycle system. In addition, this revenue procedure delays until August 1, 2017, the beginning of the 12-month submission period for master and prototype (M&P) plan sponsors and volume submitter (VS) practitioners to submit pre-approved defined contribution plans for opinion or advisory letters during the third six-year remedial amendment cycle.

.167 As a result of the previously discussed changes, plans may not have current determination letters for qualified plans. Plan sponsors will need to determine if these changes have any effect on the tax qualified status of the plan and the auditors will need to determine if they have any effect on their audit report (particularly relating to timely adoption of required amendments and the tax qualified disclosure). The guide provides examples of substantive audit procedures to consider regarding the tax qualified status of a plan which should help plan sponsors and auditors in determining the effect of this new program. These changes may also lead plan sponsors, with individually designed plans, to change their plan design and adopt master and prototype plans or volume submitter plans.

Employer Profit-Sharing Contributions

.168 Although employers may not be required to make profit-sharing contribution every year to a profit-sharing plan (based on plan provisions), such contributions must be recurring and substantial for a plan to be considered on going. If the amount is not significant enough to show an intention to continue the plan, the IRS will treat the plan as discontinued.

.169 A plan is treated as terminated for vesting purposes if the employer completely discontinues contributions. The employees affected by the discontinuance must become 100 percent vested. Generally, the plan must vest all affected employees no later than the end of the taxable year following the taxable year in which the plan made the last substantial contribution (IRC Section 411(d)(3)).

.170 The IRS presumes that an employer has completely discontinued contributions when the employer fails to make substantial contributions for at least 3 years in a 5-year period. If this happens, the burden shifts to the employer to show that a complete discontinuance has not occurred (Announcement 94-101).

Changes in the Employee Plans Compliance Resolution System

.171 The IRS has updated its Employee Plans Compliance Resolution System in Notice 2016-51 which updates Notice 2013-12 and incorporates certain provisions of previous notices. The 2016 notice makes modifications to adjust for the 2017 elimination of the staggered 5-year remedial amendment cycle, revises the approach for determining audit Closing Agreement Program (CAP) sanctions and makes modifications related to user fees.

> ***Help Desk:*** For additional information, Rev. Proc. 2016-15 may be viewed at https://www.irs.gov/pub/irs-drop/rp-16-51.pdf.

IRS Audit Trends

.172 In its announcement of Tax Exempt and Government Entities (TE/GE) Division Priorities for year ending September 30, 2016 (FY 2016), the IRS indicated that the Employee Plans division will focus resources into specialty program casework, focusing on Employee Plans Team Audit

(EPTA)/Large Case, multiemployer plans, and IRC 403(b) and 457(b) plans. The IRS notes that these areas have been selected for increased attention because they have a historical pattern of noncompliance and also allow for greater coverage of the retirement plan participant universe.

.173 Specialized training needs will be identified and implemented as needed (just-in-time training) throughout FY 2016. The remaining resources will be applied towards cash balance plans, 401(k) plans, and employee stock ownership plans.

> ***Help Desk:*** The announcement of TE/GE Priorities for FY 2016 can be viewed https://www.irs.gov/pub/irs-tege/TEGE_Priorities_for_FY2016.pdf.

In addition, similar discussion of TE/GE priorities can be read at the Tax Exempt and Government Entities FY 2017 Work Plan at https://www.irs.gov/pub/irs-tege/tege_fy2017_work_plan.pdf.

Puerto Rico Plans

.174 In late 2015 the Puerto Rico Treasury Department issued Circular Letter of Tax Policy 15-16 (CLTP 15-16) which updated key retirement plan limits for Puerto Rico-only US/Puerto Rican plans. The Circular highlights differences between US and Puerto Rican limits in some cases, and also provides a useful summary of the taxation, withholding and reporting requirements that apply to distributions from Puerto Rico retirement plans.

.175 Practitioners should note that the IRS has reiterated as recently as May 20, 2016 that U.S. companies with plan participants in Puerto Rico are not qualified for Puerto Rico purposes until the Hacienda has issued a favorable determination letter. In addition, a favorable determination letter is also required by the Hacienda for any plan amendments.

> ***Help Desk:*** For additional information, see the EP Examination Guide – Puerto Rico Plans at https://www.irs.gov/retirement-plans/section-10-puerto-rico-compliance-q-and-as-are-there-any-special-requirements-for-a-us-company-that-has-plan-participants-in-puerto-rico.

IRS Announces 2017 Plan Limits

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IRS Plan Limits	2016	2017
Limitation on the annual benefit under a defined benefit plan under Section 415(b)(1)(A)	$210,000	$215,000
Section 415 limitation for defined contribution plans	$53,000	$54,000
Limitation under Section 402(g)(1) on the exclusion for elective deferrals described in Section 402(g)(3)	$18,000	$18,000
Catch-up contribution limit	$6,000	$6,000

IRS Plan Limits	2016	2017
Annual compensation limit under Sections 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii)	$265,000	$270,000
Dollar limitation under Section 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan	$170,000	$175,000
Dollar amount under Section 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period	$1,070,000	$1,080,000
Dollar amount used to determine the lengthening of the 5-year distribution period	$210,000	$215,000
Limitation used in the definition of highly compensated employee under Section 414(q)(1)(B)	$120,000	$120,000
Annual compensation limitation under Section 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under Section 401(a)(17) to be taken into account	$395,000	$400,000
Compensation amount under Section 408(k)(2)(C) regarding simplified employee pensions (SEPs)	$600	$600
Limitation under Section 408(p)(2)(E) regarding SIMPLE retirement accounts	$12,500	$12,500
Limitation on deferrals under Section 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organization	$18,000	$18,000

Proposed Form 5500 Changes

.177 On July 21, 2016, the DOL, the IRS, and the PBGC (collectively referred to as the "Agencies") issued in the Federal Register a Notice of Proposed Revision of Annual Information Return/Reports affecting the Form 5500 Annual Return/Report Series. A Notice of Proposed Rulemaking for Annual Reporting and Disclosure to propose updates to the DOL's reporting regulations to implement the proposed forms was issued the same day.

.178 Contained in these documents are substantive changes aimed to modernize and improve the information reported in the annual filings. The proposed revisions will include such changes as modernizing financial statements and asset reporting, more robust reporting of plan expenses, and require reporting for all group health plans regardless of size.

> ***Help Desk:*** The comment period ended December 5, 2016. The proposed effective date for these changes is for plan years beginning on or after January 1, 2019.

IRS Extends Nondiscrimination Relief for Closed DB Plans

.179 In Notice 2016-57 the IRS has again renewed nondiscrimination testing relief for closed defined benefit pension plans. The IRS has been extending this relief since its release of Notice 2014-5. The present extension applies to plan years starting before 2018. The 2016 Notice notes it is anticipated that final regulations will not be published before the expiration of the extension announced in 2015.

> ***Help Desk:*** For additional information, view Notice 2016-57 at https://www.irs.gov/pub/irs-drop/n-16-57.pdf.

Partial Annuities

.180 In September 2016 the IRS published final regulations providing guidance relating to the minimum present value requirements applicable to certain defined benefit pension plans. These regulations change the minimum present value requirements for defined benefit plan distributions to permit plans to simplify the treatment of benefits that are paid partly in the form of an annuity and partly in a single sum or other more accelerated form. These regulations affect participants, beneficiaries, sponsors, and administrators of defined benefit pension plans.

> ***Help Desk:*** The final regulations can be viewed at https://www.irs.gov/irb/2016-39_IRB/ar08.html.

Expanded Missing Participant Program

.181 The PBGC issued a proposed rule concerning location of "missing" plan participants on September 20, 2016. The proposed rule would expand PBGC's existing Missing Participants Program to cover terminated 401(k) and most other defined contribution retirement plans and certain defined benefit pension plans that aren't currently covered by the program.

.182 Instead of establishing an individual retirement account at a financial institution for each missing participant account, plans would have the option of transferring benefits to PBGC. PBGC would then hold the money, add the missing participant to its online searchable database, and periodically search for the participant.

.183 The DOL has advised PBGC that it intends to review and possibly revise its regulations and guidance to coordinate with PBGC's development of a final rule on missing participants Field Assistance Bulletin No. 2014-01.

> ***Help Desk:*** The proposed rule can be viewed at https://www.gpo.gov/fdsys/pkg/FR-2016-09-20/html/2016-22278.htm.

IRS "Top Ten" List of Most Common Retirement Plan Issues

.184 In December 2016 the IRS published its EPTA "top ten" list of the most common issues found in EPTA audits. The following are the most common issues found:

1. Termination or Partial Termination - Potential Vesting/Distribution Issues
2. Acquisitions
3. Deferral Percentage Tests
4. Correct definition of considered compensation
5. Timely adoption of plan document amendments required by law
6. Vesting errors for participants age 65 and over
7. Distributions and Loans, hardship withdrawals, reporting distributions subject to the 10 percent premature distribution penalty and loan repayments.
8. Misclassification of assets reported, including large percentages classified as "other"
9. Exceeding such limits as accrued pension expense deductions by sponsors, exceeding the Section 415 contribution limits where participants are in more than one plan of the sponsor and exceeding the 402(g) deferral limitation where participants are deferring into more than one 401(k) plan.
10. Miscellaneous items such as insufficient internal controls, inaccurate participant data, administrative problems resulting from decentralized payroll systems and plan records at variance with data used to complete the annual Form 5500 filing.

Help Desk: For details on the IRS "Top Ten", see https://www.irs.gov/retirement-plans/ep-team-audit-epta-program-top-ten-issues-found-in-epta-audits

On the Horizon

.185 Auditors should keep abreast of auditing and accounting developments and upcoming guidance that may affect their engagements. The following sections present brief information about some ongoing projects that have particular significance to employee benefit plans or that may result in significant changes. Remember that exposure drafts are non-authoritative and cannot be used as a basis for changing existing standards.

.186 Information on, and copies of, outstanding exposure drafts may be obtained from the various standard-setters' websites. These websites contain in-depth information about proposed standards and other projects in the pipeline. Many more accounting and auditing projects exist in addition to those discussed here. Readers should refer to Audit Risk Alert *General Accounting and Auditing Developments—2016/17* (product nos. ARAGEN16P, ARAGEN16E, or WGE-XX) for further information.

Auditing and Attest Pipeline

PCAOB Auditor's Report on an Audit of Financial Statements

.187 The PCAOB is reproposing the auditor reporting standard, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (reproposed standard). The reproposed standard retains the pass/fail model of the existing auditor's report, which is generally acknowledged to be a useful signal as to whether the audited financial statements are presented fairly.

.188 In recent years, many investors and others have stated that auditors should provide additional information in the auditor's report to make the report more relevant and useful. At the same time, other commenters, primarily issuers and accounting firms, have argued that it would be inappropriate for the auditor to provide financial analysis or disclosures on behalf of the company being audited. The reproposed standard is intended to respond to investor requests for additional information about the financial statement audit by increasing the relevance and usefulness of the auditor's report, without imposing requirements beyond the auditor's expertise or mandate.

.189 The reproposed standard would include the following significant changes to the existing auditor's report:

- *Critical audit matters*. The reproposed standard would require communication in the auditor's report of any critical audit matters arising from the audit of the current period's financial statements.
  - — Definition of a critical audit matter. A critical audit matter is any matter that was communicated or required to be communicated to the audit committee and that
    - relates to accounts or disclosures that are material to the financial statements, and
    - involved especially challenging, subjective, or complex auditor judgment.
- *Factors in determining critical audit matters*. The auditor would take into account a nonexclusive list of factors in determining whether a matter involved especially challenging, subjective, or complex auditor judgment, such as the auditor's assessment of the risks of material misstatement, including significant risks.
- *Communication in the auditor's report*. The auditor would identify the critical audit matter, describe the principal considerations that led the auditor to determine that the matter is a critical audit matter, describe how it was addressed in the audit, and refer to the relevant financial statement accounts and disclosures. If there are no critical audit matters, the auditor would state that in the auditor's report.
- *Documentation*. The auditor would document the basis for his or her determination of whether each matter that both (1) was communicated or required to be communicated to the audit committee and (2) relates to accounts or disclosures that are material to the financial statements involved especially challenging, subjective, or complex auditor judgment.

.190 The reproposed standard would generally apply to audits conducted under PCAOB standards. However, unlike the previous proposal, communication of critical audit matters would not be required for audits of brokers and dealers reporting under Rule 17a-5 of the Securities Exchange Act of 1934; investment companies other than business development companies; and employee stock purchase, savings, and similar plans (benefit plans).

> ***Help Desk:*** For additional information regarding the PCAOB auditor's report project see www.pcaob.org.

Proposed Revised Mortality Tables

.191 The Treasury Department and IRS have issued proposed regulations prescribing mortality tables to be used by most DB plans for plan years beginning on or after January 1, 2018, to calculate the present value of a stream of expected future benefit payments for determining the minimum funding requirements and the determination of lump sum values. For plans that pay lump sum benefits, this will affect the determination of the plan's benefit obligation under FASB ASC 960. The proposed base mortality tables are derived from the RP-2014 Mortality Table, and mortality improvements rates for 2018 valuation dates will reflect the MP-2016 rates. The proposed regulations also update the requirements that a plan sponsor must meet in order to obtain IRS approval to use mortality tables specific to the plan for minimum funding purposes (instead of the generally applicable mortality tables). Comments on the proposed regulations must be received by March 29, 2017; a public hearing is scheduled for April 13, 2017.

> ***Help Desk:*** For additional information on the proposed regulations see https://www.federalregister.gov/documents/2016/12/29/2016-30906/mortality-tables-for-determining-present-value-under-defined-benefit-pension-plans.

Employee Benefit Plan Resources

.192 The following are various resources that practitioners engaged in the employee benefit plan industry may find beneficial.

AICPA Employee Benefit Plan Audit Certificate Programs

.193 Four new employee benefit plan audit certificates are currently available. The AICPA developed these new certificate programs to help auditors demonstrate their level of expertise and commitment to excellence, as well as to assist plan sponsors in selecting a qualified and competent auditor.

.194 The certificates are available at both the intermediate and advanced competency levels. Both programs offer flexible learning options, allowing auditors to take CPE learning or a standalone exam, or both. Upon successful completion of the exam, a digital badge will be awarded that can be used across the Internet to demonstrate competency at either an intermediate or advanced level.

Publications

.195 Practitioners may find the following publications useful. Visit www.AICPAStore.com and choose the format best for you—online, e-book, or print.

- Audit and Accounting Guide *Employee Benefit Plans* (2017) (product nos. AAGEBP17P, AAGEBP17E, or WEB-XX)
- *Defined Contribution Retirement Plans: Checklists and Illustrative Financial Statements* (2017) (product nos. ACKDCP17P or WDC-CL)
- *Employee Benefit Plans—Best Practices in Presentation and Disclosure*, sixth edition (product nos. AATEBP16P, AATEBP16E, or WET-XX)
- Audit and Accounting Practice Aid *Using a SOC 1® Report in Audits of Employee Benefit Plans* (product nos. APASOC116P, APASOC116E, or APASOC1O)
- AICPA Audit Guide *Special Considerations in Auditing Financial Instruments* (2014) (product nos. AAGAFI16P, AAGAFI16E, or AAGAFIO)
- AICPA Audit Guide *Audit Sampling* (2014) (product nos. AAGSAM14P, AAGSAM14E, or WAS-XX)
- AICPA Audit Risk Alert *General Accounting and Auditing Developments*—2016/17 (product nos. ARAGEN16P, ARAGEN16E, or WGE-XX)
- *U.S. GAAP Financial Statements—Best Practices in Presentation and Disclosure* (formerly *Accounting Trends and Techniques), 69th Edition* (product nos. ATTATT16P or ABPPDO)
- *Audit and Accounting Manual* (2016) (product nos. AAMAAM16P or WAM-XX)

Continuing Professional Education

.196 The AICPA offers a number of CPE courses valuable to CPAs working in public practice and industry, including the following specifically related to employee benefit plans:

- Documenting Your EBP Audit: What You Need To Know
- Advanced Auditing for Defined Contribution Retirement Plans
- Advanced Auditing for Defined Benefit Plans
- Advanced Auditing for Health and Welfare Benefit Plans
- Auditing Employee Benefit Plans
- Audits of 401(k) Plans
- Auditing Defined Contribution Retirement Plans

Visit www.AICPAStore.com for a complete list of CPE courses.

Online CPE

.197 AICPA CPExpress, offered exclusively through CPA2Biz, is the AICPA's flagship online learning product. Divided into 1-credit and 2-credit courses available 24 hours a day, 7 days a week, AICPA CPExpress offers hundreds of hours of learning in a wide variety of topics. Subscriptions are available at www.AICPAStore.com/AST/Main/CPA2BIZ_Primary/Tax/Research/PRDOVR~PC-BYF-XX/PC-BYF-XX.jsp (product no. BYT-XX).

To register for individual courses or to learn more, visit www.AICPAStore.com.

Webcasts

.198 Stay plugged in to what is happening and earn CPE credit right from your desktop. AICPA webcasts are high-quality CPE programs that bring you the latest topics from the profession's leading experts. Broadcast live, they allow you to interact with the presenters and join in the discussion. If you cannot make the live event, each webcast is archived and available for viewing. For additional details on available webcasts, please visit www.AICPAStore.com/AST/AICPA_CPA2BIZ_Browse/Store/Webcasts.jsp.

Member Service Center

.199 To order AICPA products, receive information about AICPA activities, and get help with your membership questions, call the AICPA Service Operations Center at 1.888.777.7077.

Hotlines

Accounting and Auditing Technical Hotline

.200 Do you have a complex technical question about GAAP, other comprehensive bases of accounting, or other technical matters? If so, use the AICPA's Accounting and Auditing Technical Hotline. AICPA staff will research your question and call you back with the answer. The hotline is available from 9 a.m. to 8 p.m. ET on weekdays. You can reach the Technical Hotline at 1.877.242.7212 or online at http://www.aicpa.org/research/technicalhotline/pages/default.aspx. Members can also email questions to aahotline@aicpa.org. Additionally, members can submit questions by completing a Technical Inquiry form found on the website.

Ethics Hotline

.201 In addition to the Technical Hotline, the AICPA also offers an Ethics Hotline. Members of the AICPA's Professional Ethics Team answer inquiries concerning independence and other behavioral issues related to the application of the AICPA Code of Professional Conduct. You can reach the Ethics Hotline at 1.888.777.7077 or by email at ethics@aicpa.org.

AICPA Online Professional Library: Accounting and Auditing Literature

.202 The AICPA has created your core accounting and auditing library online. The AICPA Online Professional Library is now customizable to suit your preferences or your firm's needs. You can also sign up for access to the entire library. Get access—anytime, anywhere—to FASB ASC; the AICPA's latest *Professional Standards*, *Technical Practice Aids*, Audit and Accounting Guides, Audit Risk Alerts, Accounting Trends and Techniques; and more. To subscribe to this essential online service for accounting professionals, visit www.AICPAStore.com.

Codified Clarity Standards

.203 The best way to obtain the codified clarity standards is with a subscription to AICPA *Professional Standards* in the AICPA Online Professional Library. Although the individual SASs are available in paperback, this online codified resource is what you need to update your firm audit methodology and begin understanding how clarity standards change certain ways you perform your audits. Visit www.AICPAStore.com/AST/Main/CPA2BIZ_Primary/Accounting/Standards/PRDOVR~PC-005102/PC-005102.jsp for online access to AICPA *Professional Standards*.

.204 You can also get the clarified standards in paperback format. *Codification of Statements on Auditing Standards* is published each spring and includes the clarified auditing standards and the attestation standards. *Professional Standards*, which has the full complement of AICPA standards, is published each summer.

.205 The codification of clarified standards includes various resources:

- A preface, "Principles Underlying the Conduct of an Audit in Accordance With Generally Accepted Auditing Standards"
- A glossary of terms defined in the standards
- Appendixes describing the differences between GAAS and the International Standards on Auditing

Financial Reporting Center of AICPA.org

.206 CPAs face unprecedented changes in financial reporting. As such, the AICPA has created the Financial Reporting Center to support you in the execution of high-quality financial reporting. This center provides exclusive, member-only resources for the entire financial reporting process and can be accessed at: www.aicpa.org/frc.

.207 The Financial Reporting Center (FRC) provides timely and relevant news, guidance, and examples supporting the financial reporting process. You will find resources for accounting, preparing financial statements, and performing various types of engagements—including compilation and review, audit and attest, and assurance and advisory.

.208 For example, the FRC offers a dedicated section to the Clarity Project. For the latest resources available to help you implement the clarified standards, visit the "Improving the Clarity of Auditing Standards" page at: www.aicpa.org/SASClarity.

Industry Conferences

.209 The AICPA offers an annual Employee Benefit Plans Accounting, Auditing, and Regulatory Update Conference in late fall. The conference is a two-day, high-level forum that lets you interact with expert auditors and members of the DOL. The 2017 conference will be held December 04-05 in Washington, D.C.

.210 The AICPA offers an annual national conference on employee benefit plans each spring. The conference is a three-day conference designed to update attendees on recent developments related to employee benefit plans. The 2017 conference will be held in May 2017. For further information about the conference, call 1.888.777.7077 or visit www.AICPAStore.com.

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Appendix A—Additional Internet Resources

Here are some useful websites that may provide valuable information to accountants.

Website Name	***Content***	***Website***
AICPA	Summaries of recent auditing and other professional standards, as well as other AICPA activities	www.aicpa.org www.AICPAStore.com www.ifrs.com
AICPA Financial Reporting Executive Committee	Summaries of recently issued guides, technical questions and answers, and practice bulletins containing financial, accounting, and reporting recommendations, among other things	www.aicpa.org/interestareas/frc/accounting financialreporting/pages/finrec.aspx
AICPA Auditing Standards Board	Summaries of recently issued auditing standards and interpretations	www.aicpa.org/Research/Standards/AuditAttest/ASB/Pages/default.aspx
AICPA Accounting and Review Services Committee	Summaries of review and compilation standards and interpretations	www.aicpa.org/Research/Standards/CompilationReview/ARSC/Pages/default.aspx
Economy.com	Source for analyses, data, forecasts, and information on the U.S. and world economies	www.economy.com
The Federal Reserve Board	Source of key interest rates	www.federalreserve.gov
Financial Accounting Standards Board (FASB)	Summaries of recent accounting pronouncements and other FASB activities	www.fasb.org
International Accounting Standards Board	Summaries of International Financial Reporting Standards and International Accounting Standards	www.ifrs.org
International Auditing and Assurance Standards Board	Summaries of International Standards on Auditing	www.iaasb.org

(continued)

Website Name	*Content*	*Website*
International Federation of Accountants	Information on standards-setting activities in the international arena	www.ifac.org
Private Company Financial Reporting Committee	Information on the initiative to further improve FASB's standard-setting process to consider needs of private companies and their constituents of financial reporting	www.pcfr.org
PCAOB	Information on accounting and auditing activities of the PCAOB and other matters	www.pcaob.org
SEC	Information on current SEC rulemaking and the Electronic Data Gathering, Analysis, and Retrieval database	www.sec.gov
USA.gov	Portal through which all government agencies can be accessed	www.usa.gov

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Appendix B—Health and Welfare Plans

The ACA put in place a number of comprehensive reforms with various effective dates. Some of the reforms affect the plan sponsor or service providers while other reforms directly or indirectly affect the H&W plan. It is important for the auditor of an H&W plan to understand the various provisions of the ACA and their possible effects on risk assessment as well as accounting, auditing, and reporting for the plan.

The three primary goals of the ACA were to expand coverage to those without health insurance, reform the delivery system of benefits to improve cost and quality, and decrease the costs of providing healthcare. The expansion of coverage is to be accomplished through (*a*) the establishment of state-based marketplaces for the purchase of insurance, (*b*) an individual mandate for all Americans to have health insurance coverage or pay a tax penalty, and (*c*) a mandate for certain employers to offer coverage to all full-time employees. Although federal- and state-based exchanges opened and the individual mandate became effective in 2014, the employer mandate became effective in 2015, along with associated reporting requirements.

In addition to many new tax rules to help offset the overall cost of the reform, the ACA made many changes for plan sponsors to consider that may affect plan operations, internal control, and financial reporting. Some examples of these changes are included in the following sections.

Insurance Exchanges or Marketplaces

Health insurance marketplaces, also called health or insurance exchanges, are entities set up to facilitate the purchase of health insurance in each state in accordance with the ACA. Marketplaces provide a set of government-regulated and standardized healthcare plans from which individuals may purchase health insurance policies eligible for federal subsidies.

Private Exchanges

The high costs of healthcare and the requirements of the ACA have accelerated the concept of defined contribution health plans and private health exchanges established by private entities, such as large human resource consulting firms and insurance companies. These private exchanges should not be confused with the insurance exchanges established by the states and the federal government. The private exchanges allow an employee to choose among a number of different healthcare options provided by an employer, and often specify a fixed dollar amount that the employer will contribute toward the cost of coverage. Therefore, the selection is often subsidized by the employer.

Individual Mandate

Beginning in 2014, individuals had to have Minimum Essential Coverage (MEC) or they would be subject to an individual mandate penalty unless they met one of the permitted exemptions (see https://www.irs.gov/Affordable-Care-Act/Individuals-and-Families/ACA-Individual-Shared-Responsibility-Provision-Exemptions for exemptions from the penalty). MEC includes Medicare, Medicaid, Children's Health Insurance Program (CHIP), TRICARE (healthcare program covering military personnel), and most employer-sponsored medical coverage. Tax credits and reductions in out-of-pocket costs are offered to individuals who purchase coverage through an exchange if the taxpayer's family income is between 100 percent and 400 percent of the federal poverty line; and (1) their employer does not offer healthcare benefits coverage or (2) the taxpayer's employer offers coverage but the coverage is not affordable or does not provide minimum value. If an employee purchases insurance through an exchange and qualifies for the tax credit or the reduction in out-of-pocket costs, the employer may be subjected to a penalty. Taxpayers must indicate on their tax returns whether or not they and their family members were covered by MEC throughout the year.

Employer Mandate to Offer Coverage

Beginning January 1, 2015, "applicable large employers" which include employers with 50 or more full-time, plus full-time equivalent employees may be subject to a nondeductible excise tax if one or more full-time employees (that is, those employees who work on average at least 30 hours per week) purchase health insurance through an exchange and receive a tax subsidy or credit, and the employer

- fails to offer minimum essential coverage to at least 70 percent of all full-time employees and their dependents, or
- offers minimum essential coverage to at least 70 percent of full-time employees and their dependents, but the coverage
- is unaffordable, or
- does not meet the minimum value requirement.

All members of a controlled group of employers or an affiliated group are treated as a single employer in determining whether the employer is an applicable large employer. Once the employee threshold is reached (for 2015 this is 100 employees), each employer that is a member of the group is subject to the mandate and penalties. Each employer within a controlled group is liable for the excise tax and, as such, plan assets are not permitted to be used to pay the excise tax.

This excise tax is assessed on a monthly basis. If the employer fails to offer minimum essential coverage to at least 70 percent of all full-time employees and their dependents, then the 2015 tax is an annual amount equal to $2,080 multiplied by the total number of full-time employees, minus the first 80 full-time employees. It is important to note that it takes only one full-time employee qualifying for the premium tax credit or cost reduction subsidies to trigger the excise tax with respect to all full-time employees. If the employer offers minimum essential coverage to at least 70 percent of full-time employees and their dependents, but the coverage is unaffordable, or does not meet the minimum value requirement, then the 2015 tax is an annual amount of $3,120 for each full-time employee who receives a premium tax credit or subsidy. Therefore, the potential tax is generally much higher under the first scenario than under the second scenario.

In 2016 and beyond, the employee threshold to be considered an applicable large employer is reduced to employers with 50 or more full-time, plus full-time equivalent, employees. In 2016 and beyond, the offer of coverage threshold increases from 70 percent to 95 percent, and the $2,080 amount is indexed to $2,160 and is multiplied by the number of full-time employees less 30. The tax amounts are indexed for inflation in later years. The IRS has provided transition relief for non-calendar fiscal year plans for 2015 under which the penalties will not apply before the first day of the plan year beginning in 2015.

New IRS Forms 1095-C and 1095-B for Employees

Beginning in 2016, employers are also required to report coverage information to participants for the previous calendar year through the form 1095-C. Even though these coverage statements are presented annually to employees and the IRS, the forms must provide month by month information concerning whether the employee was covered under a health insurance plan, what level of coverage was offered, and certain premium information for each month of the year. Employers must give each full-time employee (as well as other covered individuals, such as retirees, COBRA beneficiaries if the health plan is self-funded) a Form 1095-C by March 31, 2016, for the 2015 calendar year and by March 2, 2017, for the 2016 calendar year (this deadline will change to January 31 for all subsequent years (see IRS Notice 2016-4 for the 2015 extension and Notice 2016-70 for the 2017 extension)), regardless of whether the plan is insured or self-funded, and transmit all the employees' forms to the IRS no later than June 30, 2016, for the 2015 calendar year, if electronically submitted (this deadline will change to March 31 for all subsequent years). The form indicates the premium and coverage information. If the health insurance plan is fully insured, the employee will also get a Form 1095-B with coverage information from the insurance company.

Help Desk: An employer will send the IRS a Form 1094-C transmittal with a copy of each employee's Form 1095-C; a Form 1094-B transmittal from the insurance company goes with a copy of each employee's Form 1095-B. The deadline for filing these transmittal forms for calendar years after 2105 depends on whether an employer or an insurer files on paper (February 28) or electronically (March 31).

Employers need to take the information reporting very seriously because the Form 1094-C transmittal requires that an official of the employer attest that the information being reported is "true, correct and complete" under penalties of perjury. Fines are $260 (indexed annually) for each Form 1095-C, or each employee, for failing to file with the IRS, failing to include all required information, or for submitting incorrect information (up to a $3,178,500 (indexed annually) penalty for the year). Penalties cannot be paid from plan assets. Allowances are made for 2015 and 2016 for employers who makes a good-faith effort to comply.

To learn more about the annual reporting requirements for large employers https://www.irs.gov/Affordable-Care-Act/Employers/Information-Reporting-by-Applicable-Large-Employers.

Patient-Centered Outcomes Research Fees

Healthcare reform created a new not-for-profit corporation, the Patient-Centered Outcomes Research Institute (PCORI). It is funded, in part, by fees (sometimes referred to as PCORI fees) paid by health insurers for insured plans and by plan sponsors for self-insured health plans. The fees apply to specified health insurance policies with policy years ending before October 1, 2019, and applicable self-insured health plans with plan years ending before October 1, 2019. (For calendar year policies or plans, the fee is applicable for policy or plan years through 2018.) The fee is equal to the average number of lives covered during the policy year or plan year multiplied by the applicable dollar amount for the year. The applicable dollar amount was $1 for the first year of the fee,

$2 for the second year, and was indexed thereafter. It is paid each July based on the previous plan year.

Effect on Employee Benefit Plans

The PCORI fee is a tax assessed against the plan sponsor and the fee cannot be paid from plan assets. A special exemption has been created for multiemployer plans and (in certain limited cases) other plans when the plan sponsor is a trustee or board of trustees that exists solely for the purpose of sponsoring and administrating the plan and that has no source of funding independent of plan assets, so that plan assets may be used to pay the PCORI fee. See the DOL's FAQ No. 8 for further information at www.dol.gov/ebsa/faqs/faq-aca11.html.

The fee may be passed along to participants. For self-insured plans subject to ERISA care should be taken by the plan sponsor to avoid paying the fee from plan assets. Payment of improper expenses from plan assets is a breach of fiduciary duties and may be considered a prohibited transaction.

The regulations require plan sponsors of applicable self-insured health plans to use one of three alternative methods to determine the average number of lives covered under the applicable self-insured health plan for a plan year—the Actual Count Method, the Snapshot Method, or the Form 5500 Method.

> ***Help Desk:*** For more information on the PCORI fee and the methods used to determine the fee, visit www.irs.gov/uac/Newsroom/Patient-Centered-Outcomes-Research-Institute-Fee.

Transitional Reinsurance Fees

A transitional reinsurance program was established to assist insurers by partially offsetting high-cost enrollees, in and outside the new exchanges through 2016. The program is financed through fees assessed against insurers and employer-sponsored group health plans. The transitional reinsurance program will collect contributions from contributing entities to fund reinsurance payments to issuers of non-grandfathered reinsurance-eligible individual market plans, the administrative costs of operating the reinsurance program, and the General Fund of the U.S. Treasury for the 2014, 2015, and 2016 benefit years. The Department of Health and Human Services has determined the fee for 2015 to be $44 per enrollee and $27 for 2016. (Enrollees include employees plus their covered spouse and dependents.) States have the right to charge additional fees to insured individual, small group, and large group plans. If the plan is an insured plan, the fee will be paid by the insurer; if it is a self-insured plan, the plan itself is responsible for the fee but may elect to use a third-party administrator to transfer the fee. In both cases, the plan sponsor will likely bear the ultimate cost of the fee, either directly or by having it incorporated through the premium or premium equivalent process. Because the fee is assessed against the plan, plan assets may be used to pay the fee and the fee may be passed along to the participants. Certain self-insured group health plans that do not use a third-party administrator for claims processing or adjudication or for processing and communicating plan enrollment are exempt from the fee for 2015 and 2016. Although very few plans are self-insured and self-administered, the exemption may provide relief to a few collectively bargained multiemployer plans and plans sponsored by insurers or their own employees that meet the requirements for exemption.

The fee is paid on a calendar-year basis on www.pay.gov, regardless of whether the plan year is a calendar year or a fiscal year. Visit www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/The-Transitional-Reinsurance-Program/Reinsurance-Contributions.html for more information on the timeline for the payment of fees.

The regulations set forth a number of methods that plan sponsors of applicable self-insured health plans may use to determine the average number of lives covered under the applicable self-insured health plan. These methods are similar to the methods permitted to calculate the previously discussed PCORI fee. For more information on the methods to determine the fee, visit www.cms.gov/CCIIO/Programs-and-Initiatives/Premium-Stabilization-Programs/The-Transitional-Reinsurance-Program/Downloads/Examples-of-Counting-Methods-for-Contributing-Entities.pdf.

The Health Insurance Industry Fee

The Health Insurance Industry fee is due by September 30 following the data year (see https://www.irs.gov/Businesses/Corporations/Affordable-Care-Act-Provision-9010 for further information). Health insurance providers pay an annual fee based on their premium revenues. The fee will be used to fund federal- and state-run exchanges. It is likely that these fees will be passed on to customers, thus increasing the cost of insured plans—including medical, dental and vision plans, as well as insured retiree-only plans. It does not apply to self-insured plans and associated stop-loss premiums. The Consolidated Appropriations Act of 2016, Title II, Section 201, Moratorium on Annual Fee on Health Insurance Providers, suspends collection of the health insurance provider fee for the 2017 calendar year. Therefore, health insurance issuers are not required to pay these fees for 2017. This moratorium does not affect the filing requirement and payment of these fees for 2016.

Cadillac Tax

The ACA imposes an excise tax on high-value health plans (often referred to as the "Cadillac" Tax). A plan is a high-value plan when the cost of the plan exceeds certain amounts. Beginning in 2020, this excise tax is to be imposed on the provider of employer-sponsored healthcare coverage if the aggregate cost for an employee exceeds a threshold amount. The tax is 40 percent of the amount by which the aggregate cost exceeds the threshold. The annual threshold amount is $10,200 for self-only coverage and $27,500 for other coverage. Higher thresholds apply to retirees under age 65 and individuals in certain high-risk professions. The tax is determined on an employer-by-employer basis. The tax is paid by the insurer for insured programs, by the entity that administers the plan benefits in the case of self-insured plans, and by the employer in the case of health savings account (HSAs) or Archer MSA.[1] Generally, the Cadillac Tax applies to coverage under a group health plan excluding standalone vision and dental programs and those programs paid exclusively with after-tax dollars by

[1] The excise tax for not offering coverage that is either not affordable or meet minimum value is capped by the amount of tax that would have been due under the first scenario.

In Notice 2015-52, the IRS asked for comments on two alternative approaches it is considering for determining the identity of the entity that administers the plan benefits. Under one approach, the entity responsible for performing day-to-day functions that constitute the administration of the plans benefits (for example, a third-party administrator) would be the entity that administers the plan. Under the second approach, the entity that has the ultimate authority or responsibility under the plan with respect to the administration of the plan benefits would be the entity that administers the plan benefits.

the employee. Many employers are currently reassessing their health plans in an effort to reduce the expected excise tax through reductions in benefits or increases in cost sharing. Refer to IRS Notice 2015-16 regarding possible future exclusions and cost determination and Notice 2015-52 for additional guidance regarding procedural issues. Although most excise taxes are not deductible, the Cadillac Tax is deductible by the payer of the tax (see IRC Section 4980I(f)(10) for more information on the deductibility of the Cadillac Tax).

Retiree Prescription Drug Benefits

There are two employer Medicare Part D reimbursement options for retiree prescriptions drug benefits: retiree drug subsidy (RDS) and employer group waiver plan (EGWP). The RDS encourages a plan sponsor not to drop its prescription drug coverage and offers incentives for companies to keep their coverage. EGWP, on the other hand, encourages plan sponsors to participate in the Medicare Part D program.

Retiree Drug Subsidy

Before the ACA, plan sponsors offering retiree prescription drug coverage that was at least as valuable as Medicare Part D coverage were entitled to a tax-free 28-percent federal RDS. The ACA repealed the tax advantages (a deduction for the retiree drug subsidy) previously associated with the RDS program.

The ACA also made enhancements to Medicare Part D prescription drug coverage and addressed the coverage gap (known as the "donut hole") which will be filled by 2020. As a result, a potential significant cost savings opportunity has been created for plan sponsors that provide prescription drug benefits to their Medicare-eligible retirees.

Employer Group Waiver Plans

As an alternative to the RDS program, some plan sponsors have restructured their prescription drug benefit programs to an EGWP. An EGWP is a Centers for Medicare and Medicaid Services- (CMS-) approved program for both employers and unions. The employer may contract directly with CMS or go through a third party to establish the plan. For a fully insured EGWP, the third party charges a premium. More commonly, EGWPs are self-funded, integrated with Medicare Part D, and sometimes include a fully insured "wrapper" around the plan to cover drugs not included in the third party's formulary or Medicare. In a self-funded EGWP, the employer contracts with a third party (such as a pharmacy benefit manager [PBM]) to provide drug benefits to its Medicare-eligible retirees and covered Medicare-eligible dependents; the third party (on behalf of the employer) then processes claims, passes through subsidies, and charges an administrative fee. The benefits of an EGWP program include annual expected savings (less than levels under the RDS program), removal of certain administrative burdens, improved cash flow, and the transfer of the risk of administering an RDS program.

There are various components of an EGWP, and the applicability of each is dependent on how the program is designed. Each component of the program needs to be evaluated separately to determine the correct accounting treatment. Some examples of the various types of subsidies, rebates, and discounts that are commonly received under an EGWP design include the following:

- Direct subsidies
- Medicare Rebate Program

- Manufacturer Coverage Gap Discount
- (Catastrophic) Reinsurance Subsidy
- Participant-related subsidies or penalties (or both)
  - — Low income subsidies
    - Low income cost-sharing subsidy (LICS)
    - Low income premium subsidy (LIPS)
  - — Late Enrollment Penalty (LEP)

Plan sponsors may continue to apply for federal RDS program benefits, the payment of which is received directly by the employer. However, it is generally expected that retiree plan participants will receive essentially the same prescription drug benefits under an EGWP as they would under an RDS approach; however, the cost of providing the benefit will generally be less under the EGWP program. Depending on the specific plan design for cost-sharing between the employer and the retiree, the cost savings may be realized by either one or both parties.

Help Desk: For additional information on EGWP, visit www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/PartD-EGWP.html.

Medical Loss Ratio Rebates

As noted in DOL Technical Release 2011-04, Guidance on Rebates for Group Health Plans Paid Pursuant to the Medical Loss Ratio Requirements of the Public Health Service Act, Section 2718 of the Public Health Service Act (PHSA), as added by the ACA, requires that health insurers publicly report on major categories of spending of policyholder premium dollars, such as clinical services provided to enrollees and activities that will improve healthcare quality. The law also established medical loss ratio (MLR) standards. Insurers are required to provide rebates to enrollees when insurers' spending for the benefit of policyholders on reimbursement for clinical services and healthcare quality improving activities (in relation to the premiums charged as adjusted for taxes) is less than the MLR standards established by the statute. Rebates are based upon aggregated market data in each state, not upon a particular group health plan's experience.

Insurers are required to report data concerning MLR to each state in which they do business. Insurers that did not meet the MLR standards for policies are required to provide a rebate to their enrollees. Instructions and fact sheets regarding how the rebate is calculated can be found on the CMS website at http://cciio.cms.gov/.

Distributions paid by health insurance issuers to their policyholders (including employee benefit plans) can take a variety of different forms (for example, refunds, dividends, demutualization payments, rebates, and excess surplus distributions). Rebate payments made in connection with group health plans covered by ERISA and pursuant to Section 2718 of the PHSA may constitute plan assets. If so, the policyholder would be required to comply with ERISA's fiduciary provisions in the handling of rebates it receives. Readers should refer to DOL Technical Release 2011-04 (www.dol.gov/ebsa/newsroom/tr11-04.html) for further information.

Help Desk: Frequently asked questions relating to potential tax consequences of the rebate can be found at the IRS website by searching the term "medical loss ratio" at the following site: www.irs.gov/newsroom/article/0,,id=256167,00.html.

Penalty for Noncompliance with ACA Requirements

In addition to other fees, taxes, and penalties, a noncompliance penalty ($100 per affected individual) is imposed by the IRS on sponsors of group health plans for every day in which an employer is not in compliance with any of the ACA market reform requirements—such as the requirement to continue coverage for dependent children to age 26, the prohibition on annual and lifetime limits, the requirements for preventive care benefits, and the rest of the ACA market reforms. This is the same self-reported penalty that applies for violation of the Consolidated Omnibus Budget Reconciliation Act (COBRA), Heath Insurance Portability and Accountability Act (HIPAA), mental health parity, and other group health plan requirements. The market reforms only apply to a plan that has more than one active employee. For example, the market reforms do not apply to a plan whose only participants are retirees. This penalty cannot be paid by the plan.

ACA market reforms apply to certain types of group health plans, including health reimbursement arrangements (HRAs), health flexible spending arrangements (health FSAs) and certain other employer healthcare arrangements, including arrangements under which an employer reimburses an employee for some or all of the premium expenses incurred for an individual health insurance policy. See appendix B-3 of chapter 7, "Health and Welfare Benefit Plans" in the guide for a discussion of common tax advantaged financial arrangements, and IRS Notice 2015-17 (https://www.irs.gov/irb/2015-14_IRB/ar07.html), IRS Notice 2013-54 (www.irs.gov/pub/irs-drop/n-13-54.pdf), DOL Technical Release 2013-03 (www.dol.gov/ebsa/newsroom/tr13-03.html), DOL and the DOL's FAQs (www.dol.gov/ebsa/faqs/faq-aca22.html) that address the application of the ACA to these arrangements.

An employee cannot purchase an insurance policy sold in the individual health insurance market (for example, an "individual market plan") with non-taxable contributions, including the purchase of an individual market plan with employee pre-tax contributions made through a Section 125 cafeteria plan. This also includes payments from an employer to reimburse the premiums paid by an employee for an individual market plan under a Section 105 Medical Reimbursement Plan, a Revenue Ruling 61-146 arrangement, or any other arrangement in which employer dollars are being used for such reimbursements. If an employer were to provide pre- or post-tax reimbursement of an employee's costs, doing so would cause the health plan to not meet the ACA's requirements (such as the prohibition on annual dollar limits). This does not apply to retiree plans or qualified small employer health reimbursement arrangements, but does apply to arrangements for active employees as well as to partners and Sub S shareholder or employees.

Health and Welfare Plans Summary

Chapter 7 of the guide provides useful information in determining how the preceding provisions may affect a plan's accounting, auditing, and reporting. Certain provisions previously described may affect the plan sponsor's financial statements and may not affect the H&W plan itself (for example, penalties, excise taxes, and PCORI fees). Other provisions may directly affect the plan resulting in accruals on the statement of net assets available for benefits or additions or deductions to the statement of changes in net assets available for benefits (for example, rebates). In addition, certain provisions could affect the statement of benefit obligations and statement of changes in benefit obligations of the plan (for example, Cadillac Tax). Refer to the "Other Receivables" section of chapter 7 in the guide for information on other receivables, refunds or rebates, and subsidies. For plan expenses paid from the general assets of the plan sponsor that directly relate to the plan, see the "Plan Expenses" section in chapter 7 of the guide including a recommendation that such expenses be presented in the plan's financial statements so that financial statement users can fully understand the cost associated with the plan and the financial statements can reflect the true expenses of the plan. Also, refer to the "Benefit Obligations" section in chapter 7 of the guide for information on how administrative expenses expected to be paid by the plan that are associated with providing the plan's benefits should be reflected in measuring the benefit obligation.